AMENDED IN ASSEMBLY JUNE 25, 2012

SENATE BILL No. 1013

Introduced by Committee on Budget and Fiscal Review

February 6, 2012

~~An act relating to the Budget Act of 2012.~~ *An act to amend Sections 8506, 8509, 8515, 8521, 8524, 8530, 8600.5, 8608, 8619, 8620, 8621, 8700, 8701, 8702, 8703, 8704, 8705, 8707, 8708, 8709, 8710, 8710.1, 8710.3, 8712, 8713, 8715, 8716, 8717, 8720, 8730, 8732, 8733, 8735, and 9205 of, and to add Section 8513 to, the Family Code, to amend Sections 1502, 1505, and 1559.110 of the Health and Safety Code, to amend Sections 293, 361, 366.24, 450, 727.3, 727.31, 10101, 10101.2, 10103, 10553.1, 10601.2, 10605, 10609.3, 10609.4, 10609.9, 11400, 11402, 11402.6, 11403, 11403.1, 11403.2, 11403.3, 11461, 11466.23, 11469, 13754, 13757, 15200, 15204.9, 16002, 16100, 16101, 16105, 16118, 16119, 16120.1, 16121.05, 16122, 16123, 16135, 16135.10, 16135.16, 16500.5, 16500.55, 16500.65, 16500.8, 16501.1, 16501.3, 16501.5, 16501.8, 16516.5, 16519.5, 16522,16522.1, 16522.2, 16522.5, 16525.10, 16525.25, 16605, 18250, 18254, 18257, 18358.30, 18960, 18961, 18962, 18987.7, and 18987.72 of, to amend and repeal Sections 294, 305.6, 358.1, 361.5, 366.21, 366.22, 366.25, 366.26, 366.3, 16120, 16500.51, 16508, and 16508.1 of, to add Sections 10103.5, 10104, 10553.11, 10606.2, 11461.2, 11467, and 16133 to, to repeal Sections 11214, 11215, 11403.25, 11403.4, 11462.05, 15204.25, 16135.26, 16508.3, and 18255 of, to repeal and add Section 11463 of, and to repeal Chapter 2.3 (commencing with Section 16135) of Part 4 Division 9 of, the Welfare and Institutions Code, relating to public social services, and making an appropriation therefor, to take effect immediately, bill related to the budget.*

LEGISLATIVE COUNSEL'S DIGEST

SB 1013, as amended, Committee on Budget and Fiscal Review. ~~Budget Act of 2012.~~ *Child welfare services: realignment.*

Existing law governs the adoption of unmarried minors. Under existing law, a licensed adoption agency includes both licensed county and private adoption agencies. Further, existing law authorizes the State Department of Social Services to provide adoption services in counties without a county adoption agency. Existing law further prescribes the procedure for adopting a child through an agency or the State Department of Social Services, as well as for independent adoptions. Under existing law, licensed county adoption agencies perform homefinding and placement functions, investigate, examine, and make reports upon petitions for adoption filed in the superior court, act as placement agencies for placing children for adoption, accept relinquishments for adoption, and perform other tasks.

This bill would instead provide that county adoption agencies are no longer licensed by the State Department of Social Services, but are instead authorized to perform the above-described functions. The bill would define county adoption agency as one run by a county or consortium of counties. The bill would provide that the adoption procedures currently governing the State Department of Social Services and licensed adoption agencies would also apply to these county adoption agencies, as defined.

Existing law governs proceedings to declare a minor a dependent child of the court and sets forth the applicable procedures, including regular review hearings, before a court may order a hearing to terminate parental rights. Existing law further requires specified actions in these proceedings by the agency supervising a child in foster care during dependency proceedings, as well as by the county adoption agency, or the State Department of Social Services when it is acting as an adoption agency in counties without county adoption agencies. Following the termination of parental rights in dependency proceedings, the dependent child may be placed for adoption.

This bill would provide that the procedures currently required of the State Department of Social Services, licensed county adoption agencies, and agencies supervising children in foster care during dependency proceedings would apply to county adoption agencies. The bill would also delete references to the department acting as an adoption agency in counties that are not served by county adoption agencies.

Existing law requires the State Department of Social Services to encourage adoption agencies to make adoption training programs available to prospective adoptive families.

This bill would delete that requirement.

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, or nonminor former 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, or between January 1, 2013, and December 31, 2013, who attains 20 years of age prior to January 1, 2014, eligible to continue to receive that aid, notwithstanding the age limitations in existing law, provided that the nonminor dependent or nonminor former dependent continues to meet all other applicable eligibility requirements.

This bill would provide that a county is not precluded from seeking federal funding on behalf of eligible nonminor dependents or nonminor former dependents, as described in the bill, for whom the county has provided specified aid using county-only funds, on and after January 1, 2012.

Existing law establishes transition jurisdiction for the juvenile court and specifies the criteria required to come within this jurisdiction. Existing law authorizes a nonminor to petition the juvenile court to resume dependency jurisdiction or to assume or resume transition jurisdiction, as specified.

This bill would provide that nonminors who are eligible for aid pursuant to the bill also are within the transition jurisdiction of the juvenile court. The bill would impose a state-mandated local program by increasing county duties with respect to programs and services for nonminor dependents.

Existing law creates the Local Revenue Fund 2011 in the State Treasury, and creates within the fund the Trial Court Security Account, the Local Community Corrections Account, the Local Law Enforcement Services Account, the Mental Health Account, the District Attorney and Public Defender Account, the Juvenile Justice Account, the Health and Human Services Account, and the Reserve Account. Under existing law, moneys from specified tax sources and other moneys that may be specifically appropriated are required to be deposited in the Local Revenue Fund 2011. The fund is continuously appropriated for designated public safety services, including, but not limited to, the prevention of child abuse, the provision of services to abused, neglected, and exploited children, the provision of services to vulnerable children and their families, and the provision of adult protective services.

Existing law prescribes the state share of cost applicable to the child welfare program and the support and care of former dependent children who are wards of related guardians under the Kinship Guardianship Assistance Payment Program (Kin-GAP).

This bill would require funding and expenditures for the child welfare program and Kin-GAP to be consistent with specified provisions relating to the Local Revenue Fund 2011, commencing with the 2011–12 fiscal year, and each fiscal year thereafter. The bill similarly would revise the Independent Living Program for foster youth, and would require county social services departments to submit an annual Independent Living Program Report, including specified components, to the State Department of Social Services, consistent with federal law. By increasing county duties, the bill would impose a state-mandated local program.

Under existing law, the state is required to pass on certain federal funds to counties for the provision of child welfare services, except as specified. Existing law prohibits the state from requiring counties to provide matching funds in amounts greater than the amount required of the state by the federal government.

This bill would delete the prohibition against the state requiring counties to provide matching funds in excess of the amount required of the state by the federal government.

Existing law authorizes the Director of Social Services to enter into an agreement with a tribe, consortium of tribes, or tribal organization, regarding the care and custody of Indian children and jurisdiction over Indian child custody proceedings, under specified circumstances. Pursuant to these agreements, these child welfare activities are

delegated to the tribe, consortium of tribes, or tribal organization, which is also required to provide specified matching funds.

This bill would specify the share of costs required of the tribe, consortium of tribes, or tribal organization operating a program pursuant to the above agreements. The bill would require any share of costs not specified to be equal to the applicable county share of costs provided for under existing law.

Existing law establishes the California Child and Family Service Review System administered by the State Department of Social Services, to review all county child welfare systems, covering, child protective services, foster care, adoption, family preservation, family support, and independent living.

This bill would impose a state-mandated local program by requiring counties to be responsible for and accountable to the department for specified child welfare program performance measures, and would specify the duties of the counties and the department in this regard. The bill would require funding and expenditures for the California Child and Family Service Review System to be consistent with specified provisions relating to the Local Revenue Fund 2011, commencing with the 2011–12 fiscal year, and each fiscal year thereafter.

This bill would revise State Department of Social Services procedures applicable when the department believes that a county is substantially failing to comply with law or regulation pertaining to any program administered by the department, and when county noncompliance results in a federal disallowance, deferral, or other financial consequence.

This bill would revise operational and fiscal requirements applicable to various programs and services relating to foster and adoptive children, including requiring the funding and expenditures for these programs and services to be consistent with specified provisions relating to the Local Revenue Fund 2011, commencing with the 2011-12 fiscal year, and each fiscal year thereafter. These include programs and services relating to the support and care of these children, such as AFDC-FC and Kin-GAP; AFDC-FC performance standards and outcome measures, including with respect to children placed in private for-profit facilities; transitional services, including housing; specialized care increments and clothing allowances; administrative costs; county social worker visits; county "Options for Recovery" programs; community-based kinship support services programs; wraparound services; and child abuse and neglect prevention and intervention programs. The bill would eliminate state participation in clothing

allowances commencing with the 2011–12 fiscal year, and would make clothing allowances payable at the county's option, as specified. With respect to foster family agencies, the bill would incorporate the clothing allowance into a revised basic rate, as specified.

Existing law establishes the continuously appropriated Transitional Housing for Foster Youth Fund in the State Treasury.

This bill would eliminate this fund.

Existing law establishes the Aid to Families with Dependent Children-Foster Care (AFDC-FC) program, under which counties provide payments to foster care providers on behalf of qualified children in foster care, pursuant to prescribed rate schedules.

This bill would require the department to establish, in consultation with specified entities, a workgroup to develop recommended revisions to the current AFDC-FC ratesetting system, and would require the workgroup to submit these recommendations to the Legislature by a specified date.

Existing law declares the intent of the Legislature to comply with federal law relating to the repayment of federal foster care, adoption assistance, and Kin-GAP overpayments. Existing law requires counties to remit the appropriate amount of federal funds, upon identification of the overpayment. Certain amounts are excluded from the overpayment requirement.

This bill would require counties to pay 100% of the cost of the federal overpayments described above, for overpayments identified on and after July 1, 2012, and would authorize the county to retain any funds collected from overpaid providers or recipients after remitting the federal share.

Existing law requires every youth who is in foster care and nearing emancipation to be screened by the county for federal Supplemental Security Income (SSI) eligibility, as specified.

This bill would revise county procedures with respect to screening foster youth and nonminors in the care of a related caregiver for SSI benefits.

Existing law provides for the Adoption Assistance Program (AAP), to be established and administered by the State Department of Social Services or the county, for the purpose of benefiting children residing in foster homes by providing the stability and security of permanent homes.

This bill would require counties, pursuant to a process developed by the department and the County Welfare Directors Association of

California, to report to the department on the expenditure of savings realized as a result of maximizing available federal adoption assistance funding, thereby imposing a state-mandated local program. The bill would revise procedures applicable to the adoption of children who are HIV positive, or born to a substance-abusing mother.

Existing law declares the intent of the Legislature to provide various services relating to family preservation and support, as specified, in connection with the statewide system of child welfare services.

This bill would revise child welfare provisions relating to family preservation and support services, including requiring counties to expend funds for these activities in a manner that will maximize eligibility for financial participation under the federal Promoting Safe and Stable Families program. The bill also would require the State Department of Social Services and the Office of Child Abuse Prevention to provide specified administrative oversight, monitoring, and consultation, to ensure that federal funding is maintained and federal requirements are met. The bill would require family preservation and support services to be consistent with specified provisions relating to the Local Revenue Fund 2011, commencing with the 2011–12 fiscal year and each fiscal year thereafter. The bill would make related technical and conforming changes.

Existing law declares that the foundation and central unifying tool in child welfare services is the case plan. Existing law specifies issues to be considered when out-of-home placement is used to attain case plan goals, including selection of the environment best suited to meet the child's special needs and best interests.

This bill would revise the selection criteria relating to out-of-home placements.

This bill would recast and revise, make technical changes to, and repeal obsolete, provisions relating to child welfare services and programs, including the AFDC-FC program, the Child Welfare Services Case Management System, an advisory committee on therapeutic day services standards, and a workgroup on group care for foster children or youth, and for children with serious emotional disorders.

This bill would appropriate $1,000 from the General Fund to the State Department of Social Services.

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

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

This bill would declare that it is to take effect immediately as a bill providing for appropriations related to the Budget Bill.

~~This bill would express the intent of the Legislature to enact statutory changes relating to the Budget Act of 2012.~~

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

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

SECTION 1. This act is titled and may be cited as the 2011 Realignment Legislation addressing public safety.

SEC. 2. Section 8506 of the Family Code is amended to read:

8506. "Agency adoption" means the adoption of a minor, other than an intercountry adoption, in which the department, *county adoption agency,* or ~~a~~ licensed adoption agency is a party to, or joins in, the adoption petition.

SEC. 3. Section 8509 of the Family Code is amended to read:

8509. "Applicant" means a person who has submitted a written application to adopt a child from the department, *county adoption agency,* or ~~a~~ licensed adoption agency and who is being considered by the ~~department or~~ *adoption* agency for the adoptive placement of a child.

SEC. 4. Section 8513 is added to the Family Code, to read:

8513. "County adoption agency" means an adoption agency operated by a county or consortium of counties.

SEC. 5. Section 8515 of the Family Code is amended to read:

8515. "Delegated county adoption agency" means a ~~licensed~~ county adoption agency that has agreed to provide the services described in Chapter 3 (commencing with Section 8800) of Part 2.

SEC. 6. Section 8521 of the Family Code is amended to read:

8521. (a) "Full-service adoption agency" means a licensed *or authorized* entity engaged in the business of providing adoption services, that does all of the following:

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

(2) Assesses the birth parents, prospective adoptive parents, or child.

(3) Places children for adoption.

(4) Supervises adoptive placements.

(b) Private full-service adoption agencies shall be organized and operated on a nonprofit basis. As a condition of licensure to provide intercountry adoption services, a private full-service adoption agency shall be accredited by the Council on Accreditation, or supervised by an accredited primary provider, or acting as an exempted provider, in compliance with Subpart F (commencing with Section 96.29) of Part 96 of Title 22 of the Code of Federal Regulations.

SEC. 7. Section 8524 of the Family Code is amended to read:

8524. "Independent adoption" means the adoption of a child in which neither the department, *county adoption agency,* nor ~~an~~ agency licensed by the department is a party to, or joins in, the adoption petition.

SEC. 8. Section 8530 of the Family Code is amended to read:

8530. "Licensed adoption agency" means an agency licensed by the department to provide adoption services~~, including a licensed county adoption agency and a licensed private adoption agency~~.

SEC. 9. Section 8600.5 of the Family Code is amended to read:

8600.5. ~~(a)~~ Tribal customary adoption as defined in Section 366.24 of the Welfare and Institutions Code and as applied to Indian Children who are dependents of the court, does not apply to this part.

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

SEC. 10. Section 8608 of the Family Code is amended to read:

8608. (a) The department shall adopt regulations specifying the form and content of the reports required by Sections 8706, 8817, and 8909. In addition to any other material that may be required by the department, the form shall include inquiries designed to elicit information on any illness, disease, or defect of a genetic or hereditary nature.

(b) All *county adoption agencies and* licensed adoption agencies shall cooperate with and assist the department in devising a plan that will effectuate the effective and discreet transmission to adoptees or prospective adoptive parents of pertinent medical information reported to the department, *county adoption agency,* or ~~the~~ licensed adoption agency, upon the request of the person reporting the medical information.

SEC. 11. Section 8619 of the Family Code is amended to read:

8619. The department shall adopt rules and regulations it determines are reasonably necessary to ensure that the birth parent or parents of Indian ancestry, seeking to relinquish a child for adoption, provide sufficient information to the department, *county adoption agency,* or ~~to the~~ licensed adoption agency so that a certificate of degree of Indian blood can be obtained from the Bureau of Indian Affairs. The department shall immediately request a certificate of degree of Indian blood from the Bureau of Indian Affairs upon obtaining the information. A copy of all documents pertaining to the degree of Indian blood and tribal enrollment, including a copy of the certificate of degree of Indian blood, shall become a permanent record in the adoption files and shall be housed in a central location and made available to authorized personnel from the Bureau of Indian Affairs when required to determine the adopted person's eligibility to receive services or benefits because of the adopted person's status as an Indian. This information shall be made available to the adopted person upon reaching the age of majority.

SEC. 12. Section 8620 of the Family Code is amended to read:

8620. (a) (1) If a parent is seeking to relinquish a child pursuant to Section 8700 or execute an adoption placement agreement pursuant to Section 8801.3, the department, *county adoption agency,* licensed adoption agency, or adoption service provider, as applicable, shall ask the child and the child's parent or custodian whether the child is, or may be, a member of, or eligible for membership in an Indian tribe or whether the child has been identified as a member of an Indian organization. The department, *county adoption agency,* licensed adoption agency, or adoption service provider, as applicable, shall complete the forms provided for this purpose by the department and shall make this completed form a part of the file.

(2) If there is any oral or written information that indicates that the child is, or may be, an Indian child, the department, *county adoption agency,* licensed adoption agency, or adoption service provider, as applicable, shall obtain the following information:

(A) The name of the child involved, and the actual date and place of birth of the child.

(B) The name, address, date of birth, and tribal affiliation of the birth parents, maternal and paternal grandparents, and maternal and paternal great-grandparents of the child.

(C) The name and address of extended family members of the child who have a tribal affiliation.

(D) The name and address of the Indian tribes or Indian organizations of which the child is, or may be, a member.

(E) A statement of the reasons why the child is, or may be, an Indian.

(3) (A) The department, *county adoption agency,* licensed adoption agency, attorney for the prospective adoptive parents, or adoption service provider shall send a notice, which shall include information obtained pursuant to paragraph (2) and a request for confirmation of the child's Indian status, to any parent and any custodian of the child, and to any Indian tribe of which the child is, or may be, a member or eligible for membership. If any of the information required under paragraph (2) cannot be obtained, the notice shall indicate that fact.

(B) The notice sent pursuant to subparagraph (A) shall describe the nature of the proceeding and advise the recipient of the Indian tribe's right to intervene in the proceeding on its own behalf or on behalf of a tribal member relative of the child.

(b) The department shall adopt regulations to ensure that if a child who is being voluntarily relinquished for adoption, pursuant to Section 8700, is an Indian child, the parent of the child shall be advised of his or her right to withdraw his or her consent and thereby rescind the relinquishment of an Indian child for any reason at any time prior to entry of a final decree of termination of parental rights or adoption, pursuant to Section 1913 of Title 25 of the United States Code.

(c) If a child who is the subject of an adoption proceeding after being relinquished for adoption pursuant to Section 8700, is an Indian child, the child's Indian tribe may intervene in that proceeding on behalf of a tribal member relative of the child.

(d) Any notice sent under this section shall comply with Section 180.

(e) If all prior notices required by this section have been provided to an Indian tribe, the Indian tribe receiving those prior notices is encouraged to provide notice to the department and to the licensed adoption agency, *county adoption agency,* or adoption service provider, not later than five calendar days prior to the date of the hearing to determine whether or not the final adoption order is to be granted, indicating whether or not it intends to intervene in the proceeding required by this section, either on its own behalf or on behalf of a tribal member who is a relative of the child.

(f) The Legislature finds and declares that some adoptive children may benefit from either direct or indirect contact with an Indian tribe. Nothing in the adoption laws of this state shall be construed to prevent the adopting parent or parents, the birth relatives, including the birth parent or parents, an Indian tribe, and the child, from voluntarily entering into a written agreement to permit continuing contact between the Indian tribe and the child, if the agreement is found by the court to have been entered into voluntarily and to be in the best interest of the child at the time the adoption petition is granted.

(g) With respect to giving notice to Indian tribes in the case of voluntary placements of Indian children pursuant to this section, a person, other than a birth parent of the child, shall be subject to a civil penalty if that person knowingly and willfully:

(1) Falsifies, conceals, or covers up by any trick, scheme, or device, a material fact concerning whether the child is an Indian child or the parent is an Indian.

(2) Makes any false, fictitious, or fraudulent statement, omission, or representation.

(3) Falsifies a written document knowing that the document contains a false, fictitious, or fraudulent statement or entry relating to a material fact.

(4) Assists any person in physically removing a child from the State of California in order to obstruct the application of notification.

(h) Civil penalties for a violation of subdivision (g) by a person other than a birth parent of the child are as follows:

(1) For the initial violation, a person shall be fined not more than ten thousand dollars ($10,000).

(2) For any subsequent violation, a person shall be fined not more than twenty thousand dollars ($20,000).

SEC. 13. Section 8621 of the Family Code is amended to read:

8621. The department shall adopt regulations regarding the provision of adoption services by the department, *county adoption agencies,* licensed adoption agencies, and other adoption service providers, and shall monitor the provision of those services by *county adoption agencies,* licensed adoption agencies, and other adoption providers. The department shall report violations of regulations to the appropriate licensing authority.

This section shall become operative on January 1, 1995.

SEC. 14. Section 8700 of the Family Code is amended to read:

8700. (a) Either birth parent may relinquish a child to the department, *county adoption agency,* or ~~a~~ licensed adoption agency for adoption by a written statement signed before two subscribing witnesses and acknowledged before an authorized official of the department, *county adoption agency,* or *licensed adoption* agency. The relinquishment, when reciting that the person making it is entitled to the sole custody of the child and acknowledged before the officer, is prima facie evidence of the right of the person making it to the sole custody of the child and the person's sole right to relinquish.

(b) A relinquishing parent who is a minor has the right to relinquish his or her child for adoption to the department, *county adoption agency,* or ~~a~~ licensed adoption agency, and the relinquishment is not subject to revocation by reason of the minority.

(c) If a relinquishing parent resides outside this state and the child is being cared for and is or will be placed for adoption by the department, *county adoption agency,* or a licensed adoption agency, the relinquishing parent may relinquish the child to the department, *county adoption agency,* or *licensed adoption* agency by a written statement signed by the relinquishing parent before a notary on a form prescribed by the department, and previously signed by an authorized official of the department, *county adoption agency,* or ~~agency,~~ *licensed adoption agency* that signifies the willingness of the department, *county adoption agency,* or *licensed adoption* agency to accept the relinquishment.

(d) If a relinquishing parent and child reside outside this state and the child will be cared for and will be placed for adoption by

the department, *county adoption agency,* or ~~a~~ licensed adoption agency, the relinquishing parent may relinquish the child to the department, *county adoption agency,* or *licensed adoption* agency by a written statement signed by the relinquishing parent, after that parent has satisfied the following requirements:

(1) Prior to signing the relinquishment, the relinquishing parent shall have received, from a representative of an agency licensed or otherwise approved to provide adoption services under the laws of the relinquishing parent's state of residence, the same counseling and advisement services as if the relinquishing parent resided in this state.

(2) The relinquishment shall be signed before a representative of an agency licensed or otherwise approved to provide adoption services under the laws of the relinquishing parent's state of residence whenever possible or before a licensed social worker on a form prescribed by the department, and previously signed by an authorized official of the department, *county adoption agency,* or *licensed adoption* agency, that signifies the willingness of the department, *county adoption agency,* or *licensed adoption* agency to accept the relinquishment.

(e) (1) The relinquishment authorized by this section has no effect until a certified copy is sent to, and filed with, the department. The *county adoption agency or* licensed adoption agency shall send that copy by certified mail, return receipt requested, or by overnight courier or messenger, with proof of delivery, to the department no earlier than the end of the business day following the signing thereof. The agency shall inform the birth parent that during this time period he or she may request that the relinquishment be withdrawn and that, if he or she makes the request, the relinquishment shall be withdrawn. The relinquishment shall be final 10 business days after receipt of the filing by the department, unless any of the following apply:

(A) The department sends written acknowledgment of receipt of the relinquishment prior to the expiration of that 10-day period, at which time the relinquishment shall be final.

(B) A longer period of time is necessary due to a pending court action or some other cause beyond control of the department.

(2) After the relinquishment is final, it may be rescinded only by the mutual consent of the department, *county adoption agency,*

or licensed adoption agency to which the child was relinquished and the birth parent or parents relinquishing the child.

(f) The relinquishing parent may name in the relinquishment the person or persons with whom he or she intends that placement of the child for adoption be made by the department, *county adoption agency,* or licensed adoption agency.

(g) Notwithstanding subdivision (e), if the relinquishment names the person or persons with whom placement by the department, *county adoption agency,* or licensed adoption agency is intended and the child is not placed in the home of the named person or persons or the child is removed from the home prior to the granting of the adoption, the department ~~or~~, *county adoption agency, or licensed adoption* agency shall mail a notice by certified mail, return receipt requested, to the birth parent signing the relinquishment within 72 hours of the decision not to place the child for adoption or the decision to remove the child from the home.

(h) The relinquishing parent has 30 days from the date on which the notice described in subdivision (g) was mailed to rescind the relinquishment.

(1) If the relinquishing parent requests rescission during the 30-day period, the department, *county adoption agency,* or licensed adoption agency shall rescind the relinquishment.

(2) If the relinquishing parent does not request rescission during the 30-day period, the department, *county adoption agency,* or licensed adoption agency shall select adoptive parents for the child.

(3) If the relinquishing parent and the department, *county adoption agency,* or licensed adoption agency wish to identify a different person or persons during the 30-day period with whom the child is intended to be placed, the initial relinquishment shall be rescinded and a new relinquishment identifying the person or persons completed.

(i) If the parent has relinquished a child, who has been found to come within Section 300 of the Welfare and Institutions Code or is the subject of a petition for jurisdiction of the juvenile court under Section 300 of the Welfare and Institutions Code, to the department, *county adoption agency,* or a licensed adoption agency for the purpose of adoption, the department, *county adoption agency,* or *licensed adoption* agency accepting the relinquishment

shall provide written notice of the relinquishment within five court days to all of the following:

(1) The juvenile court having jurisdiction of the child.

(2) The child's attorney, if any.

(3) The relinquishing parent's attorney, if any.

(j) The filing of the relinquishment with the department terminates all parental rights and responsibilities with regard to the child, except as provided in subdivisions (g) and (h).

(k) The department shall adopt regulations to administer the provisions of this section.

SEC. 15. Section 8701 of the Family Code is amended to read:

8701. At or before the time a relinquishment is signed, the department, *county adoption agency,* or licensed adoption agency shall advise the birth parent signing the relinquishment, verbally and in writing, that the birth parent may, at any time in the future, request from the department, *county adoption agency,* or *licensed adoption* agency all known information about the status of the child's adoption, except for personal, identifying information about the adoptive family. The birth parent shall be advised that this information includes, but is not limited to, all of the following:

(a) Whether the child has been placed for adoption.

(b) The approximate date that an adoption was completed.

(c) If the adoption was not completed or was vacated, for any reason, whether adoptive placement of the child is again being considered.

SEC. 16. Section 8702 of the Family Code is amended to read:

8702. (a) The department shall adopt a statement to be presented to the birth parents at the time a relinquishment is signed and to prospective adoptive parents at the time of the home study. The statement shall, in a clear and concise manner and in words calculated to ensure the confidence of the birth parents in the integrity of the adoption process, communicate to the birth parents of a child who is the subject of an adoption petition all of the following facts:

(1) It is in the child's best interest that the birth parent keep the department, *county adoption agency,* or licensed adoption agency to whom the child was relinquished for adoption informed of any health problems that the parent develops that could affect the child.

(2) It is extremely important that the birth parent keep an address current with the department, *county adoption agency,* or licensed

adoption agency to whom the child was relinquished for adoption in order to permit a response to inquiries concerning medical or social history.

(3) Section 9203 of the Family Code authorizes a person who has been adopted and who attains the age of 21 years to request the department, *county adoption agency,* or the licensed adoption agency to disclose the name and address of the adoptee's birth parents. Consequently, it is of the utmost importance that the birth parent indicate whether to allow this disclosure by checking the appropriate box provided on the form.

(4) The birth parent may change the decision whether to permit disclosure of the birth parent's name and address, at any time, by sending a notarized letter to that effect, by certified mail, return receipt requested, to the department, *county adoption agency,* or to the licensed adoption agency that joined in the adoption petition.

(5) The relinquishment will be filed in the office of the clerk of the court in which the adoption takes place. The file is not open to inspection by any persons other than the parties to the adoption proceeding, their attorneys, and the department, except upon order of a judge of the superior court.

(b) The department shall adopt a form to be signed by the birth parents at the time the relinquishment is signed, which shall provide as follows:

"Section 9203 of the Family Code authorizes a person who has been adopted and who attains the age of 21 years to make a request to the State Department of Social Services, *county adoption agency,* or ~~the~~ licensed adoption agency that joined in the adoption petition, for the name and address of the adoptee's birth parents. Indicate by checking one of the boxes below whether or not you wish your name and address to be disclosed:

□ YES
□ NO
□ UNCERTAIN AT THIS TIME; WILL NOTIFY AGENCY AT LATER DATE."

SEC. 17. Section 8703 of the Family Code is amended to read:

8703. When the parental rights of a birth parent are terminated pursuant to Chapter 5 (commencing with Section 7660) of Part 3 of Division 12 or Part 4 (commencing with Section 7800) of

Division 12, or pursuant to Section 366.25 or 366.26 of the Welfare and Institutions Code, the department, *county adoption agency,* or licensed adoption agency responsible for the adoptive placement of the child shall send a written notice to the birth parent, if the birth parent's address is known, that contains the following statement:

(a) "You are encouraged to keep the department or this agency informed of your current address in order to permit a response to any inquiry concerning medical or social history made by or on behalf of the child who was the subject of the court action terminating parental rights.

(b) Section 9203 of the Family Code authorizes a person who has been adopted and who attains the age of 21 years to make a request to the State Department of Social Services, *county adoption agency,* or ~~the~~ licensed adoption agency, that joined in the adoption petition, for the name and address of the adoptee's birth parents. Indicate by checking one of the boxes below whether or not you wish your name and address to be disclosed:

( ) YES

( ) NO

( ) UNCERTAIN AT THIS TIME; WILL NOTIFY AGENCY AT LATER DATE"

SEC. 18. Section 8704 of the Family Code is amended to read:

8704. (a) The department, *county adoption agency,* or licensed adoption agency to which a child has been freed for adoption by either relinquishment or termination of parental rights is responsible for the care of the child, and is entitled to the exclusive custody and control of the child until an order of adoption is granted. Any placement for temporary care, or for adoption, made by the department, *county adoption agency,* or ~~a~~ licensed adoption agency may be terminated in its discretion at any time before the granting of an order of adoption. In the event of termination of any placement for temporary care or for adoption, the child shall be returned promptly to the physical custody of the department, *county adoption agency,* or licensed adoption agency.

(b) No petition may be filed to adopt a child relinquished to the department, *county adoption agency,* or ~~a~~ licensed adoption agency or a child declared free from the custody and control of either or

both birth parents and referred to the department, *county adoption agency,* or ~~a~~ licensed adoption agency for adoptive placement, except by the prospective adoptive parents with whom the child has been placed for adoption by the department, *county adoption agency,* or licensed adoption agency. After the adoption petition has been filed, the department, *county adoption agency,* or licensed adoption agency may remove the child from the prospective adoptive parents only with the approval of the court, upon motion by the department, *county adoption agency,* or licensed adoption agency after notice to the prospective adoptive parents, supported by an affidavit or affidavits stating the grounds on which removal is sought. If the department, *county adoption agency,* or licensed adoption agency refuses to consent to the adoption of a child by the person or persons with whom the department, *county adoption agency,* or licensed adoption agency placed the child for adoption, the court may nevertheless order the adoption if it finds that the refusal to consent is not in the child's best interest.

SEC. 19. Section 8705 of the Family Code is amended to read:

8705. (a) Where a child is in the custody of a public agency or licensed adoption agency, if it is established that the persons whose consent to the adoption is required by law are deceased, an action may be brought by the department, *county adoption agency,* or ~~a~~ licensed adoption agency requesting the court to make an order establishing that the requesting agency has the right to custody and control of the child and the authority to place the child for adoption. The department, *county adoption agency,* or *licensed adoption* agency bringing the action shall give notice in the form prescribed by the court to all known relatives of the child up to and including the third degree of lineal or collateral consanguinity.

(b) This section does not apply where a guardian of the person of the child has been appointed pursuant to nomination by a will.

SEC. 20. Section 8707 of the Family Code is amended to read:

8707. (a) The department shall establish a statewide photo-listing service to serve all *county adoption agencies and* licensed adoption agencies in the state as a means of recruiting adoptive families. The department shall adopt regulations governing the operations of the photo-listing service and shall establish procedures for monitoring compliance with this section.

(b) The photo-listing service shall maintain child specific information that, except as provided in this section, contains a

photograph and description of each child who has been legally freed for adoption and whose case plan goal is adoption. Registration of children with the photo-listing service and notification by the licensed adoption agency of changes in a child's photo-listing status shall be reflected in the photo-listing service within 30 working days of receipt of the registration or notification.

(c) The photo-listing service shall be provided to all *county adoption agencies,* licensed adoption agencies, adoption support groups, and state, regional, and national photo-listings and exchanges requesting copies of the photo-listing service.

(d) All children legally freed for adoption whose case plan goal is adoption shall be photo-listed, unless deferred as provided in subdivision (e) or (f). ~~Licensed adoption~~ *Adoption* agencies shall send a recent photograph and description of each legally freed child to the photo-listing service within 15 working days of the time a child is legally freed for adoption. When adoption has become the case plan goal for a particular child, the ~~licensed~~ adoption agency may photo-list that child before the child becomes legally freed for adoption.

(e) A child shall be deferred from the photo-listing service when the child's foster parents or other identified individuals who have applied to adopt the child are meeting the *county adoption agency's or* licensed adoption agency's requests for required documentation and are cooperating in the completion of a home study being conducted by the agency.

(f) A child who is 12 years old or older may be deferred from the photo-listing service if the child does not consent to being adopted.

(g) Within 15 working days following a one-year period in which a child is listed in the photo-listing service, the *county adoption agency or* licensed adoption agency shall submit a revised description and photograph of the child.

(h) ~~Licensed~~ *County adoption agencies and licensed* adoption agencies shall notify the photo-listing service, by telephone, of any adoptive placements or of significant changes in a child's photo-listing status within two working days of the change.

(i) The department shall establish procedures for semiannual review of the photo-listing status of all legally freed children whose case plan goal is adoption, including those who are registered with

the photo-listing service and those whose registration has been deferred.

SEC. 21. Section 8708 of the Family Code is amended to read:

8708. (a) ~~Neither the department nor a licensed~~ *The* adoption agency to which a child has been freed for adoption by either relinquishment or termination of parental rights ~~may~~ *shall not* do any of the following:

(1) Deny to any person the opportunity to become an adoptive parent on the basis of the race, color, or national origin of the person or the child involved.

(2) Delay or deny the placement of a child for adoption on the basis of the race, color, or national origin of the adoptive parent or the child involved.

(3) Delay or deny the placement of a child for adoption solely because the prospective, approved adoptive family resides outside the jurisdiction of the department, *county adoption agency,* or ~~the~~ licensed adoption agency. For purposes of this paragraph, an approved adoptive family means a family approved pursuant to the California adoptive applicant assessment standards. If the adoptive applicant assessment was conducted in another state according to that state's standards, the California placing agency shall determine whether the standards of the other state substantially meet the standards and criteria established in California adoption regulations.

(b) This section shall not be construed to affect the application of the *federal* Indian Child Welfare Act (25 U.S.C. Sec. 1901 and following).

SEC. 22. Section 8709 of the Family Code is amended to read:

8709. (a) The department, *county adoption agency,* or licensed adoption agency to which a child has been freed for adoption by either relinquishment or termination of parental rights may consider the child's religious background in determining an appropriate placement.

(b) This section shall not be construed to affect the application of the *federal* Indian Child Welfare Act (25 U.S.C. Sec. 1901 and following).

SEC. 23. Section 8710 of the Family Code is amended to read:

8710. (a) If a child is being considered for adoption, the department, *county adoption agency,* or licensed adoption agency shall first consider adoptive placement in the home of a relative

or, in the case of an Indian child, according to the placement preferences and standards set out in subdivisions (c), (d), (e), (f), (g), (h), and (i) of Section 361.31 of the Welfare and Institutions Code. However, if the birth parent refuses to consider a relative or sibling placement, if a relative is not available, if placement with an available relative is not in the child's best interest, or if placement would permanently separate the child from other siblings who are being considered for adoption or who are in foster care and an alternative placement would not require the permanent separation, the foster parent or parents of the child shall be considered with respect to the child along with all other prospective adoptive parents where all of the following conditions are present:

(1) The child has been in foster care with the foster parent or parents for a period of more than four months.

(2) The child has substantial emotional ties to the foster parent or parents.

(3) The child's removal from the foster home would be seriously detrimental to the child's well-being.

(4) The foster parent or parents have made a written request to be considered to adopt the child.

(b) In the case of an Indian child whose foster parent or parents or other prospective adoptive parents do not fall within the placement preferences established in subdivision (c) or (d) of Section 361.31 of the Welfare and Institutions Code, the foster parent or parents or other prospective adoptive parents shall only be considered if the court finds, supported by clear and convincing evidence, that good cause exists to deviate from these placement preferences.

(c) This section does not apply to a child who has been adjudged a dependent of the juvenile court pursuant to Section 300 of the Welfare and Institutions Code.

(d) Upon a request to move a child from a prospective adoptive home for the purpose of placement with siblings or other relatives, the court shall consider the best interests of the child.

SEC. 24. Section 8710.1 of the Family Code is amended to read:

8710.1. If there is not an adoptive placement plan for a child with an approved adoptive family, as defined in subdivision (c) of Section 8708, within the department's, *county adoption agency's,* or ~~the~~ licensed adoption agency's jurisdiction, then the department,

county adoption agency, or licensed adoption agency shall register the child with the exchange system described in Section 8710.2.

SEC. 25. Section 8710.3 of the Family Code is amended to read:

8710.3. If the department, *county adoption agency,* or licensed adoption agency has approved a family for adoption pursuant to subdivision (c) of Section 8708 and that family may be appropriate for placement of a child who has been adjudged a dependent child of the juvenile court, the department, *county adoption agency,* or *licensed adoption* agency shall register the family with the statewide exchange system established pursuant to Section 8710.2, except in either of the following circumstances:

(a) The family refuses to consent to the registration.

(b) A specific child or children have already been identified for adoptive placement with the family.

SEC. 26. Section 8712 of the Family Code is amended to read:

8712. (a) The department, *county adoption agency,* or licensed adoption agency shall require each person filing an application for adoption to be fingerprinted and shall secure from an appropriate law enforcement agency any criminal record of that person to determine whether the person has ever been convicted of a crime other than a minor traffic violation. The department, *county adoption agency,* or ~~a~~ licensed adoption agency may also secure the person's full criminal record, if any. Any federal-level criminal offender record requests to the Department of Justice shall be submitted with fingerprint images and related information required by the Department of Justice for the purposes of obtaining information as to the existence and content of a record of an out-of-state or federal conviction or arrest of a person or information regarding any out-of-state or federal crimes or arrests for which the Department of Justice establishes that the person is free on bail, or on his or her own recognizance pending trial or appeal. The Department of Justice shall forward to the Federal Bureau of Investigation any requests for federal summary criminal history information received pursuant to this section. The Department of Justice shall review the information returned from the Federal Bureau of Investigation and shall compile and disseminate a response to the department, *county adoption agency,* or ~~a~~ licensed adoption agency.

(b) Notwithstanding subdivision (c), the criminal record, if any, shall be taken into consideration when evaluating the prospective adoptive parent, and an assessment of the effects of any criminal history on the ability of the prospective adoptive parent to provide adequate and proper care and guidance to the child shall be included in the report to the court.

(c) (1) Under no circumstances shall the department, *county adoption agency,* or ~~a~~ licensed adoption agency give final approval for an adoptive placement in any home where the prospective adoptive parent or any adult living in the prospective adoptive home has either of the following:

(A) A felony conviction for child abuse or neglect, spousal abuse, crimes against a child, including child pornography, or for 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), of 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- or alcohol-related offense.

(2) This subdivision shall become operative on October 1, 2008, and shall remain operative only to the extent that compliance with its provisions is required by federal law as a condition of receiving funding under Title IV-E of the federal Social Security Act (42 U.S.C. *Sec.* 670 and following).

(d) Any fee charged by a law enforcement agency for fingerprinting or for checking or obtaining the criminal record of the applicant shall be paid by the applicant. The department, *county adoption agency,* or licensed adoption agency may defer, waive, or reduce the fee when its payment would cause economic hardship to prospective adoptive parents detrimental to the welfare of the adopted child, when the child has been in the foster care of the prospective adoptive parents for at least one year, or if necessary for the placement of a special-needs child.

SEC. 27. Section 8713 of the Family Code is amended to read:

8713. (a) In no event may a child who has been freed for adoption be removed from the county in which the child was placed, by any person who has not petitioned to adopt the child, without first obtaining the written consent of the department, *county*

adoption agency, or licensed adoption agency responsible for the child.

(b) During the pendency of an adoption proceeding:

(1) The child proposed to be adopted may not be concealed within the county in which the adoption proceeding is pending.

(2) The child may not be removed from the county in which the adoption proceeding is pending unless the petitioners or other interested persons first obtain permission for the removal from the court, after giving advance written notice of intent to obtain the court's permission to the department, *county adoption agency,* or licensed adoption agency responsible for the child. Upon proof of giving notice, permission may be granted by the court if, within a period of 15 days after the date of giving notice, no objections are filed with the court by the department, *county adoption agency,* or licensed adoption agency responsible for the child. If the department, *county adoption agency,* or licensed adoption agency files objections within the 15-day period, upon the request of the petitioners the court shall immediately set the matter for hearing and give to the objector, the petitioners, and the party or parties requesting permission for the removal reasonable notice of the hearing by certified mail, return receipt requested, to the address of each as shown in the records of the adoption proceeding. Upon a finding that the objections are without good cause, the court may grant the requested permission for removal of the child, subject to any limitations that appear to be in the child's best interest.

(c) This section does not apply in any of the following situations:

(1) Where the child is absent for a period of not more than 30 days from the county in which the adoption proceeding is pending, unless a notice of recommendation of denial of petition has been personally served on the petitioners or the court has issued an order prohibiting the child's removal from the county pending consideration of any of the following:

(A) The suitability of the petitioners.

(B) The care provided the child.

(C) The availability of the legally required agency consents to the adoption.

(2) Where the child has been returned to and remains in the custody and control of the child's birth parent or parents.

(3) Where written consent for the removal of the child is obtained from the department, *county adoption agency,* or licensed adoption agency responsible for the child.

(d) A violation of this section is a violation of Section 280 of the Penal Code.

(e) Neither this section nor Section 280 of the Penal Code may be construed to render lawful any act that is unlawful under any other applicable law.

SEC. 28. Section 8715 of the Family Code is amended to read:

8715. (a) The department, *county adoption agency,* or licensed adoption agency, whichever is a party to, or joins in, the petition, shall submit a full report of the facts of the case to the court.

(b) If the child has been adjudged to be a dependent of the juvenile court pursuant to Section 300 of the Welfare and Institutions Code, and has thereafter been freed for adoption by the juvenile court, the report required by this section shall describe whether the requirements of subdivision (e) of Section 16002 of the Welfare and Institutions Code have been completed and what, if any, plan exists for facilitation of postadoptive contact between the child who is the subject of the adoption petition and his or her siblings and half siblings.

(c) If a petition for adoption has been filed with a postadoption contact agreement pursuant to Section 8616.5, the report shall address whether the postadoption contact agreement has been entered into voluntarily, and whether it is in the best interests of the child who is the subject of the petition.

(d) The department may also submit a report in those cases in which a *county adoption agency, or* licensed adoption agency is a party or joins in the adoption petition.

(e) If a petitioner is a resident of a state other than California, an updated and current homestudy report, conducted and approved by a licensed adoption agency or other authorized resource in the state in which the petitioner resides, shall be reviewed and endorsed by the department, *county adoption agency,* or licensed adoption agency, if the standards and criteria established for a homestudy report in the other state are substantially commensurate with the homestudy standards and criteria established in California adoption regulations.

SEC. 29. Section 8716 of the Family Code is amended to read:

8716. Where a petition is filed for the adoption of a child who has been placed for adoption by a *county adoption agency,* licensed county adoption agency, or the department, the *county adoption agency, licensed adoption* agency, or department may, at the time of filing a favorable report with the court, require the petitioners to pay to the agency, as agent of the state, or to the department, a fee of five hundred dollars ($500). The *county adoption* agency, *licensed adoption agency,* or department may defer, waive, or reduce the fee if its payment would cause economic hardship to the prospective adoptive parents detrimental to the welfare of the adopted child, if the child has been in the foster care of the prospective adoptive parents for at least one year, or if necessary for the placement of a special-needs child.

SEC. 30. Section 8717 of the Family Code is amended to read:

8717. When any report or findings are submitted to the court by the department, *county adoption agency,* or licensed adoption agency, a copy of the report or findings, whether favorable or unfavorable, shall be given to the petitioner's attorney in the proceeding, if the petitioner has an attorney of record, or to the petitioner.

SEC. 31. Section 8720 of the Family Code is amended to read:

8720. (a) If the department, *county adoption agency,* or licensed adoption agency finds that the home of the petitioners is not suitable for the child or that the required agency consents are not available and the department, *county adoption agency,* or *licensed adoption* agency recommends that the petition be denied, or if the petitioners desire to withdraw the petition and the department, *county adoption agency,* or *licensed adoption* agency recommends that the petition be denied, the clerk upon receipt of the report of the department, *county adoption agency,* or *licensed adoption* agency shall immediately refer it to the court for review.

(b) Upon receipt of the report, the court shall set a date for a hearing of the petition and shall give reasonable notice of the hearing to the department, *county adoption agency,* or licensed adoption agency, the petitioners, and, if necessary, the birth parents, by certified mail, return receipt requested, to the address of each as shown in the proceeding.

(c) The department, *county adoption agency,* or licensed adoption agency shall appear to represent the child.

SEC. 32. Section 8730 of the Family Code is amended to read:

8730. If the prospective adoptive parent of a child is a foster parent with whom the child has lived for a minimum of six months or a relative caregiver who has had an ongoing and significant relationship with the child, an assessment or home study of the prospective adoptive parent may, at the discretion of the department, *county adoption agency*, or a licensed adoption agency, or unless the court with jurisdiction over the child orders otherwise, require only the following:

(a) A criminal records check of the relative caregiver or foster parent, as provided in subdivision (a) of Section 8712.

(b) A determination that the relative caregiver or foster parent has sufficient financial stability to support the child and ensure that any adoption assistance program payment or other government assistance to which the child is entitled is used exclusively to meet the child's needs. In making this determination, the experience of the relative caregiver or foster parent only while the child was in his or her care shall be considered. For purposes of this section, the relative caregiver or foster parent shall be required to provide verification of employment records or income or both.

(c) A determination that the relative caregiver or foster parent has not abused or neglected the child while the child has been in his or her care and has fostered the healthy growth and development of the child. This determination shall include a review of the disciplinary practices of the relative caregiver or foster parent to ensure that the practices are age appropriate and do not physically or emotionally endanger the child.

(d) A determination that there is not a likelihood that the relative caregiver or foster parent will abuse or neglect the child in the future, that the caregiver or foster parent can protect the child, ensure necessary care and supervision, and foster the child's healthy growth and development.

(e) A determination that the relative caregiver or foster parent can address racial and cultural issues that may affect the child's well-being.

(f) An interview with the relative caregiver or foster parent, an interview with each individual residing in the home and an interview with the child to be adopted.

SEC. 33. Section 8732 of the Family Code is amended to read:

8732. A report of a medical examination of the foster parent with whom the child has lived for a minimum of six months or the

relative caregiver who has had an ongoing and significant relationship with the child shall be included in the assessment of each applicant unless the department, *county adoption agency,* or licensed adoption agency determines that, based on other available information, this report is unnecessary. The assessment shall require certification that the applicant and each adult residing in the applicant's home has received a test for communicable tuberculosis.

SEC. 34. Section 8733 of the Family Code is amended to read:

8733. The department, *county adoption agency,* or licensed adoption agency shall require the adoptive parent to be provided with information related to the specific needs of the child to be adopted, that, as determined by the licensed adoption agency, may include information regarding the following: issues surrounding birth parents, the effects of abuse and neglect on children, cultural and racial issues, sexuality, contingency planning for children in the event of the parents' death or disability, financial assistance for adopted children, common childhood disabilities, including, but not limited to, emotional disturbances, attention deficit disorder, learning disabilities, speech and hearing impairment, and dyslexia, the importance of sibling and half-sibling relationships, and other issues related to adoption and child development and the availability of counseling to deal with these issues.

SEC. 35. Section 8735 of the Family Code is amended to read:

8735. The department shall ~~require~~ *adopt regulations requiring county adoption agencies and licensed* adoption agencies to inform the agency responsible for the foster care placement when a relative caregiver or foster parent has been denied approval to adopt based on an inability of the relative caregiver or foster parent to provide for the mental and emotional health, safety, and security of the child and to recommend either that the relative caregiver or foster parent be provided with additional support and supervision or that the child be removed from the home of the relative caregiver or foster parent.

SEC. 36. Section 9205 of the Family Code is amended to read:

9205. (a) Notwithstanding any other law, the department ~~or~~*, county adoption agency, or licensed* adoption agency that joined in the adoption petition shall release the names and addresses of siblings to one another if both of the siblings have attained 18 years of age and have filed the following with the department or agency:

(1) A current address.

(2) A written request for contact with any sibling whose existence is known to the person making the request.

(3) A written waiver of the person's rights with respect to the disclosure of the person's name and address to the sibling, if the person is an adoptee.

(b) Upon inquiry and proof that a person is the sibling of an adoptee who has filed a waiver pursuant to this section, the department ~~or~~, *county adoption agency, or licensed adoption* agency may advise the sibling that a waiver has been filed by the adoptee. The department ~~or~~, *county adoption agency, or licensed adoption* agency may charge a reasonable fee, not to exceed fifty dollars ($50), for providing the service required by this section.

(c) An adoptee may revoke a waiver filed pursuant to this section by giving written notice of revocation to the department or agency.

(d) The department shall adopt a form for the request authorized by this section. The form shall provide for an affidavit to be executed by a person seeking to employ the procedure provided by this section that, to the best of the person's knowledge, the person is an adoptee or sibling of an adoptee. The form also shall contain a notice of an adoptee's rights pursuant to subdivision (c) and a statement that information will be disclosed only if there is a currently valid waiver on file with the department or agency. The department may adopt regulations requiring any additional means of identification from a person making a request pursuant to this section as it deems necessary.

(e) The department ~~or~~, *county adoption agency, or licensed adoption* agency may not solicit the execution of a waiver authorized by this section. However, the department shall announce the availability of the procedure authorized by this section, utilizing a means of communication appropriate to inform the public effectively.

(f) Notwithstanding the age requirement described in subdivision (a), an adoptee or sibling who is under 18 years of age may file a written waiver of confidentiality for the release of his or her name, address, and telephone number pursuant to this section provided that, if an adoptee, the adoptive parent consents, and, if a sibling, the sibling's legal parent or guardian consents. If the sibling is under the jurisdiction of the dependency court and has no legal

parent or guardian able or available to provide consent, the dependency court may provide that consent.

(g) Notwithstanding subdivisions (a) and (e), an adoptee or sibling who seeks contact with the other for whom no waiver is on file may petition the court to appoint a confidential intermediary. If the sibling being sought is the adoptee, the intermediary shall be the department ~~or~~, *county adoption agency, or* licensed adoption agency that provided adoption services as described in Section 8521 or 8533. If the sibling being sought was formerly under the jurisdiction of the juvenile court, but is not an adoptee, the intermediary shall be the department, the county child welfare agency that provided services to the dependent child, or the licensed adoption agency that provided adoption services to the sibling seeking contact, as appropriate. If the court finds that the ~~licensed adoption~~ agency that conducted the adoptee's adoption is unable, due to economic hardship, to serve as the intermediary, then the agency shall provide all records related to the adoptee or the sibling to the court and the court shall appoint an alternate confidential intermediary. The court shall grant the petition unless it finds that it would be detrimental to the adoptee or sibling with whom contact is sought. The intermediary shall have access to all records of the adoptee or the sibling and shall make all reasonable efforts to locate and attempt to obtain the consent of the adoptee, sibling, or adoptive or birth parent, as required to make the disclosure authorized by this section. The confidential intermediary shall notify any located adoptee, sibling, or adoptive or birth parent that consent is optional, not required by law, and does not affect the status of the adoption. If that individual denies the request for consent, the confidential intermediary shall not make any further attempts to obtain consent. The confidential intermediary shall use information found in the records of the adoptee or the sibling for authorized purposes only, and may not disclose that information without authorization. If contact is sought with an adoptee or sibling who is under 18 years of age, the confidential intermediary shall contact and obtain the consent of that child's legal parent before contacting the child. If the sibling is under 18 years of age, under the jurisdiction of the dependency court, and has no legal parent or guardian able or available to provide consent, the intermediary shall obtain that consent from the dependency court. If the adoptee is seeking information regarding a sibling who is

known to be a dependent child of the juvenile court, the procedures set forth in subdivision (b) of Section 388 of the Welfare and Institutions Code shall be utilized. If the adoptee is foreign born and was the subject of an intercountry adoption as defined in Section 8527, the adoption agency may fulfill the reasonable efforts requirement by utilizing all information in the agency's case file, and any information received upon request from the foreign adoption agency that conducted the adoption, if any, to locate and attempt to obtain the consent of the adoptee, sibling, or adoptive or birth parent. If that information is neither in the agency's case file, nor received from the foreign adoption agency, or if the attempts to locate are unsuccessful, then the agency shall be relieved of any further obligation to search for the adoptee or the sibling.

(h) For purposes of this section, "sibling" means a biological sibling, half-sibling, or step-sibling of the adoptee.

(i) ~~Implementation of the amendments made to this section by Chapter 386 of the Statutes of 2006 shall be delayed until July 1, 2012.~~ It is the intent of the Legislature that implementation of some or all of the changes made to Section 9205 of the Family Code by Chapter 386 of the Statutes of 2006 shall continue, to the extent possible.

(j) Beginning 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. 37. Section 1502 of the Health and Safety Code is amended to read:

1502. As used in this chapter:

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

(1) "Residential facility" means any family home, group care facility, or similar facility determined by the director, for 24-hour nonmedical care of persons in need of personal services,

supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual.

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

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

(4) "Foster family agency" means any 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.

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

(6) "Small family home" means any residential facility, in the licensee's family residence, that 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. A small family home may accept children with special health care needs, pursuant to subdivision (a) of Section 17710 of the Welfare and Institutions Code. In addition to placing children with special health care needs, the department may approve placement of children without special health care needs, up to the licensed capacity.

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

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

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

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

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

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

(C) Places children for adoption.

(D) Supervises adoptive placements.

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

(10) "Noncustodial adoption agency" means any licensed entity engaged in the business of providing adoption services, that does all of the following:

(A) Assesses the prospective adoptive parents.

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

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

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

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

(12) "Transitional housing placement ~~facility"~~ *provider"* means ~~a community care facility licensed by the department pursuant to Section 1559.110 to provide transitional housing opportunities to persons at least 16 years of age, and not more than 18 years of age unless the requirements of Section 11403 and paragraph (1) of subdivision (a) of Section 11403.2 of the Welfare and Institutions Code are met, who are in out-of-home placement under the supervision of the county department of social services or the county probation department, and who are participating in an independent living program~~ *an organization licensed by the department pursuant to Section 1559.110 and Section 16522.1 of the Welfare and Institutions 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) of Section 11400 of the Welfare and Institutions Code, to promote their transition to adulthood. A transitional housing placement provider shall be privately operated and organized on a nonprofit basis*.

(b) "Department" or "state department" means the State Department of Social Services.

(c) "Director" means the Director of Social Services.

SEC. 38. 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 setting 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, or Indian tribe 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) On and after January 1, 2012, a THP-Plus Foster Care setting, for nonminor dependents, as defined in subdivision (x) of Section 11400 of the Welfare and Institutions Code, who are placed by the juvenile court, supervised by the county welfare department or probation department and the placement of whom is approved, in accordance with 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 welfare department 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. 39. Section 1559.110 of the Health and Safety Code is amended to read:

1559.110. (a) ~~Except as specified in subdivision (e), the~~ *The* State Department of Social Services shall license ~~community care facilities participating in transitional housing placement programs, as designated in Sections 11400 and 16522~~ *transitional housing placement providers pursuant to this chapter. Prior to licensure, a provider shall obtain certification from the applicable county welfare department, in accordance with Section 16522.1* of the Welfare and Institutions Code.

(b) Transitional housing placement ~~programs shall~~ *providers shall* provide supervised *transitional* housing services to ~~persons~~ *foster children* who are at least 16 years of age and not more than 18 years of age, ~~except as provided in Section 11403 and paragraph (1) of subdivision (a) of Section 11403.2 of the Welfare and Institutions Code, and who meet all of the following conditions:~~ *or nonminor dependents, as defined in subdivision (v) of Section 11400 of the Welfare and Institutions Code, or both.*

~~(1) Meet the requirements of Section 11401 of the Welfare and Institutions Code.~~

~~(2) Are in out-of-home placement under the supervision of the county department of social services or the county probation department.~~

~~(3) Are participating in, or have successfully completed, an independent living program.~~

~~(c) A transitional housing placement program may also serve any person less than 21 years of age pursuant to paragraph (2) of subdivision (a) of Section 11403.2 of the Welfare and Institutions Code.~~

~~(d)~~

(c) Transitional housing placement ~~program services shall~~ *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 one or more participants in the program live in an apartment, single-family dwelling, or condominium with an adult employee of the provider*, or host family home*.

(2) Programs in which a participant lives independently in an apartment, single-family dwelling, or condominium rented or leased by the provider located 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 rented 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) A transitional housing placement facility that serves only eligible youth over 18 years of age who have emancipated from the foster care system shall not be subject to subdivision (a), provided the facility has been certified to provide transitional housing services by the appropriate county social services or probation department, and has obtained a local fire clearance. No later than June 30, 2002, the department shall establish certification standards and procedures in consultation with the County Welfare Directors Association, the California Youth Connection, the county probation departments, and provider representatives. The certification standards shall include, but not be limited to, a criminal background check of transitional housing providers and staff.~~

~~(f)~~

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

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

(A) Require programs that serve ~~youth who are both in and out of the foster care system~~ *both foster children and nonminor dependents* to have separate rules and program design, as appropriate, for these two groups of youth.

(B) Allow ~~youth who have emancipated from the foster care system~~ *nonminor dependents* to have the greatest amount of freedom possible in order to prepare them for ~~self-sufficiency~~ *their transition to adulthood, in accordance with paragraph (1) of subdivision (b) of Section 1502.7*.

SEC. 40. Section 293 of the Welfare and Institutions Code is amended to read:

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

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

(1) The mother.

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

(3) The legal guardian or guardians.

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

(5) Any known sibling of the child 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) In the case of a child removed from the physical custody of his or her parent or legal guardian, the current caregiver of the child, including the foster parents, relative caregivers, preadoptive parents, nonrelative extended family members, community care facility, or foster family agency having custody of the child. In a

case in which a foster family agency is notified of the hearing pursuant to this section, and the child resides in a foster home certified by the foster family agency, the foster family agency shall provide timely notice of the hearing to the child's caregivers.

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

(b) No notice is required for a parent whose parental rights have been terminated. On and after January 1, 2012, in the case of a nonminor dependent, as described in subdivision (v) of Section 11400, no notice is required for a parent.

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

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

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

(f) Notice to the current caregiver of the child, including a foster parent, a relative caregiver, a preadoptive parent, or a nonrelative extended family member, or to a certified foster parent who has been approved for adoption, or the State Department of Social Services when it is acting as an adoption agency ~~in counties that are not served by a county adoption agency~~ or by a ~~licensed~~ county adoption agency, shall indicate that the person notified may attend all hearings or may submit any information he or she deems relevant to the court in writing.

(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. 41. Section 294 of the Welfare and Institutions Code, as amended by Section 2 of Chapter 287 of the Statutes of 2009, is amended to read:

294. The social worker or probation officer shall give notice of a selection and implementation hearing held pursuant to Section 366.26 in the following manner:

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

(1) The mother.

(2) The fathers, presumed and alleged.

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

(4) Any known sibling of the child 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.

(5) The grandparents of the child, if their address is known and if the parent's whereabouts are unknown.

(6) All counsel of record.

(7) To any unknown parent by publication, if ordered by the court pursuant to paragraph (2) of subdivision (g).

(8) The current caregiver of the child, including foster parents, relative caregivers, preadoptive parents, and nonrelative extended family members. Any person notified may attend all hearings and may submit any information he or she deems relevant to the court in writing.

(b) The following persons shall not be notified of the hearing:

(1) A parent who has relinquished the child to the State Department of Social Services, *county adoption agency,* or ~~to a~~ licensed adoption agency for adoption, and the relinquishment has been accepted and filed with notice as required under Section 8700 of the Family Code.

(2) An alleged father who has denied paternity and has executed a waiver of the right to notice of further proceedings.

(3) A parent whose parental rights have been terminated.

(c) (1) Service of the notice shall be completed at least 45 days before the hearing date. Service is deemed complete at the time the notice is personally delivered to the person named in the notice

or 10 days after the notice has been placed in the mail, or at the expiration of the time prescribed by the order for publication.

(2) Service of notice in cases where publication is ordered shall be completed at least 30 days before the date of the hearing.

(d) Regardless of the type of notice required, or the manner in which it is served, once the court has made the initial finding that notice has properly been given to the parent, or to any person entitled to receive notice pursuant to this section, subsequent notice for any continuation of a Section 366.26 hearing may be by first-class mail to any last known address, by an order made pursuant to Section 296, or by any other means that the court determines is reasonably calculated, under any circumstance, to provide notice of the continued hearing. However, if the recommendation changes from the recommendation contained in the notice previously found to be proper, notice shall be provided to the parent, and to any person entitled to receive notice pursuant to this section, regarding that subsequent hearing.

(e) The notice shall contain the following information:

(1) The date, time, and place of the hearing.

(2) The right to appear.

(3) The parents' right to counsel.

(4) The nature of the proceedings.

(5) The recommendation of the supervising agency.

(6) A statement that, at the time of hearing, the court is required to select a permanent plan of adoption, legal guardianship, or long-term foster care for the child.

(f) Notice to the parents may be given in any one of the following manners:

(1) If the parent is present at the hearing at which the court schedules a hearing pursuant to Section 366.26, the court shall advise the parent of the date, time, and place of the proceedings, their right to counsel, the nature of the proceedings, and the requirement that at the proceedings the court shall select and implement a plan of adoption, legal guardianship, or long-term foster care for the child. The court shall direct the parent to appear for the proceedings and then direct that the parent be notified thereafter by first-class mail to the parent's usual place of residence or business only.

(2) Certified mail, return receipt requested, to the parent's last known mailing address. This notice shall be sufficient if the child welfare agency receives a return receipt signed by the parent.

(3) Personal service to the parent named in the notice.

(4) Delivery to a competent person who is at least 18 years of age at the parent's usual place of residence or business, and thereafter mailed to the parent named in the notice by first-class mail at the place where the notice was delivered.

(5) If the residence of the parent is outside the state, service may be made as described in paragraph (1), (3), or (4) or by certified mail, return receipt requested.

(6) If the recommendation of the probation officer or social worker is legal guardianship or long-term foster care, or, in the case of an Indian child, tribal customary adoption, service may be made by first-class mail to the parent's usual place of residence or business.

(7) If a parent's identity is known but his or her whereabouts are unknown and the parent cannot, with reasonable diligence, be served in any manner specified in paragraphs (1) to (6), inclusive, the petitioner shall file an affidavit with the court at least 75 days before the hearing date, stating the name of the parent and describing the efforts made to locate and serve the parent.

(A) If the court determines that there has been due diligence in attempting to locate and serve the parent and the probation officer or social worker recommends adoption, service shall be to that parent's attorney of record, if any, by certified mail, return receipt requested. If the parent does not have an attorney of record, the court shall order that service be made by publication of citation requiring the parent to appear at the date, time, and place stated in the citation, and that the citation be published in a newspaper designated as most likely to give notice to the parent. Publication shall be made once a week for four consecutive weeks. Whether notice is to the attorney of record or by publication, the court shall also order that notice be given to the grandparents of the child, if their identities and addresses are known, by first-class mail.

(B) If the court determines that there has been due diligence in attempting to locate and serve the parent and the probation officer or social worker recommends legal guardianship or long-term foster care, no further notice is required to the parent, but the court

shall order that notice be given to the grandparents of the child, if their identities and addresses are known, by first-class mail.

(C) In any case where the residence of the parent becomes known, notice shall immediately be served upon the parent as provided for in either paragraph (2), (3), (4), (5), or (6).

(g) (1) If the identity of one or both of the parents, or alleged parents, of the child is unknown, or if the name of one or both parents is uncertain, then that fact shall be set forth in the affidavit filed with the court at least 75 days before the hearing date and the court, consistent with the provisions of Sections 7665 and 7666 of the Family Code, shall issue an order dispensing with notice to a natural parent or possible natural parent under this section if, after inquiry and a determination that there has been due diligence in attempting to identify the unknown parent, the court is unable to identify the natural parent or possible natural parent and no person has appeared claiming to be the natural parent.

(2) After a determination that there has been due diligence in attempting to identify an unknown parent pursuant to paragraph (1) and the probation officer or social worker recommends adoption, the court shall consider whether publication notice would be likely to lead to actual notice to the unknown parent. The court may order publication notice if, on the basis of all information before the court, the court determines that notice by publication is likely to lead to actual notice to the parent. If publication notice to an unknown parent is ordered, the court shall order the published citation to be directed to either the father or mother, or both, of the child, and to all persons claiming to be the father or mother of the child, naming and otherwise describing the child. An order of publication pursuant to this paragraph shall be based on an affidavit describing efforts made to identify the unknown parent or parents. Service made by publication pursuant to this paragraph shall require the unknown parent or parents to appear at the date, time, and place stated in the citation. Publication shall be made once a week for four consecutive weeks.

(3) If the court determines that there has been due diligence in attempting to identify one or both of the parents, or alleged parents, of the child and the probation officer or social worker recommends legal guardianship or long-term foster care, no further notice to the parent shall be required.

(h) Notice to the child and all counsel of record shall be by first-class mail.

(i) If the court knows or has reason to know that an Indian child is involved, notice shall be given in accordance with Section 224.2.

(j) Notwithstanding subdivision (a), if the attorney of record is present at the time the court schedules a hearing pursuant to Section 366.26, no further notice is required, except as required by subparagraph (A) of paragraph (7) of subdivision (f).

(k) This section shall also apply to children adjudged wards pursuant to Section 727.31.

(*l*) The court shall state the reasons on the record explaining why good cause exists for granting any continuance of a hearing held pursuant to Section 366.26 to fulfill the requirements of this section.

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

SEC. 42. Section 294 of the Welfare and Institutions Code, as added by Section 3 of Chapter 287 of the Statutes of 2009, is repealed.

~~294. The social worker or probation officer shall give notice of a selection and implementation hearing held pursuant to Section 366.26 in the following manner:~~

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

~~(1) The mother.~~

~~(2) The fathers, presumed and alleged.~~

~~(3) The child, if the child is 10 years of age or older.~~

~~(4) Any known sibling of the child 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.~~

~~(5) The grandparents of the child, if their address is known and if the parent's whereabouts are unknown.~~

~~(6) All counsel of record.~~

~~(7) To any unknown parent by publication, if ordered by the court pursuant to paragraph (2) of subdivision (g).~~

~~(8) The current caregiver of the child, including foster parents, relative caregivers, preadoptive parents, and nonrelative extended family members. Any person notified may attend all hearings and may submit any information he or she deems relevant to the court in writing.~~

~~(b) The following persons shall not be notified of the hearing:~~

~~(1) A parent who has relinquished the child to the State Department of Social Services or to a licensed adoption agency for adoption, and the relinquishment has been accepted and filed with notice as required under Section 8700 of the Family Code.~~

~~(2) An alleged father who has denied paternity and has executed a waiver of the right to notice of further proceedings.~~

~~(3) A parent whose parental rights have been terminated.~~

~~(c) (1) Service of the notice shall be completed at least 45 days before the hearing date. Service is deemed complete at the time the notice is personally delivered to the person named in the notice or 10 days after the notice has been placed in the mail, or at the expiration of the time prescribed by the order for publication.~~

~~(2) Service of notice in cases where publication is ordered shall be completed at least 30 days before the date of the hearing.~~

~~(d) Regardless of the type of notice required, or the manner in which it is served, once the court has made the initial finding that notice has properly been given to the parent, or to any person entitled to receive notice pursuant to this section, subsequent notice for any continuation of a Section 366.26 hearing may be by first-class mail to any last known address, by an order made pursuant to Section 296, or by any other means that the court determines is reasonably calculated, under any circumstance, to provide notice of the continued hearing. However, if the recommendation changes from the recommendation contained in the notice previously found to be proper, notice shall be provided to the parent, and to any person entitled to receive notice pursuant to this section, regarding that subsequent hearing.~~

~~(e) The notice shall contain the following information:~~

~~(1) The date, time, and place of the hearing.~~

~~(2) The right to appear.~~

~~(3) The parents' right to counsel.~~

~~(4) The nature of the proceedings.~~

~~(5) The recommendation of the supervising agency.~~

~~(6) A statement that, at the time of hearing, the court is required to select a permanent plan of adoption, legal guardianship, or long-term foster care for the child.~~

~~(f) Notice to the parents may be given in any one of the following manners:~~

~~(1) If the parent is present at the hearing at which the court schedules a hearing pursuant to Section 366.26, the court shall advise the parent of the date, time, and place of the proceedings, their right to counsel, the nature of the proceedings, and the requirement that at the proceedings the court shall select and implement a plan of adoption, legal guardianship, or long-term foster care for the child. The court shall direct the parent to appear for the proceedings and then direct that the parent be notified thereafter by first-class mail to the parent's usual place of residence or business only.~~

~~(2) Certified mail, return receipt requested, to the parent's last known mailing address. This notice shall be sufficient if the child welfare agency receives a return receipt signed by the parent.~~

~~(3) Personal service to the parent named in the notice.~~

~~(4) Delivery to a competent person who is at least 18 years of age at the parent's usual place of residence or business, and thereafter mailed to the parent named in the notice by first-class mail at the place where the notice was delivered.~~

~~(5) If the residence of the parent is outside the state, service may be made as described in paragraph (1), (3), or (4) or by certified mail, return receipt requested.~~

~~(6) If the recommendation of the probation officer or social worker is legal guardianship or long-term foster care, service may be made by first-class mail to the parent's usual place of residence or business.~~

~~(7) If a parent's identity is known but his or her whereabouts are unknown and the parent cannot, with reasonable diligence, be served in any manner specified in paragraphs (1) to (6), inclusive, the petitioner shall file an affidavit with the court at least 75 days before the hearing date, stating the name of the parent and describing the efforts made to locate and serve the parent.~~

~~(A) If the court determines that there has been due diligence in attempting to locate and serve the parent and the probation officer or social worker recommends adoption, service shall be to that parent's attorney of record, if any, by certified mail, return receipt~~

~~requested. If the parent does not have an attorney of record, the court shall order that service be made by publication of citation requiring the parent to appear at the date, time, and place stated in the citation, and that the citation be published in a newspaper designated as most likely to give notice to the parent. Publication shall be made once a week for four consecutive weeks. Whether notice is to the attorney of record or by publication, the court shall also order that notice be given to the grandparents of the child, if their identities and addresses are known, by first-class mail.~~

~~(B) If the court determines that there has been due diligence in attempting to locate and serve the parent and the probation officer or social worker recommends legal guardianship or long-term foster care, no further notice is required to the parent, but the court shall order that notice be given to the grandparents of the child, if their identities and addresses are known, by first-class mail.~~

~~(C) In any case where the residence of the parent becomes known, notice shall immediately be served upon the parent as provided for in either paragraph (2), (3), (4), (5), or (6).~~

~~(g) (1) If the identity of one or both of the parents, or alleged parents, of the child is unknown, or if the name of one or both parents is uncertain, then that fact shall be set forth in the affidavit filed with the court at least 75 days before the hearing date and the court, consistent with the provisions of Sections 7665 and 7666 of the Family Code, shall issue an order dispensing with notice to a natural parent or possible natural parent under this section if, after inquiry and a determination that there has been due diligence in attempting to identify the unknown parent, the court is unable to identify the natural parent or possible natural parent and no person has appeared claiming to be the natural parent.~~

~~(2) After a determination that there has been due diligence in attempting to identify an unknown parent pursuant to paragraph (1) and the probation officer or social worker recommends adoption, the court shall consider whether publication notice would be likely to lead to actual notice to the unknown parent. The court may order publication notice if, on the basis of all information before the court, the court determines that notice by publication is likely to lead to actual notice to the parent. If publication notice to an unknown parent is ordered, the court shall order the published citation to be directed to either the father or mother, or both, of the child, and to all persons claiming to be the father or mother of~~

~~the child, naming and otherwise describing the child. An order of publication pursuant to this paragraph shall be based on an affidavit describing efforts made to identify the unknown parent or parents. Service made by publication pursuant to this paragraph shall require the unknown parent or parents to appear at the date, time, and place stated in the citation. Publication shall be made once a week for four consecutive weeks.~~

~~(3) If the court determines that there has been due diligence in attempting to identify one or both of the parents, or alleged parents, of the child and the probation officer or social worker recommends legal guardianship or long-term foster care, no further notice to the parent shall be required.~~

~~(h) Notice to the child and all counsel of record shall be by first-class mail.~~

~~(i) If the court knows or has reason to know that an Indian child is involved, notice shall be given in accordance with Section 224.2.~~

~~(j) Notwithstanding subdivision (a), if the attorney of record is present at the time the court schedules a hearing pursuant to Section 366.26, no further notice is required, except as required by subparagraph (A) of paragraph (7) of subdivision (f).~~

~~(k) This section shall also apply to children adjudged wards pursuant to Section 727.31.~~

~~(*l*) The court shall state the reasons on the record explaining why good cause exists for granting any continuance of a hearing held pursuant to Section 366.26 to fulfill the requirements of this section.~~

~~(m) This section shall become operative on January 1, 2014.~~

SEC. 43. Section 305.6 of the Welfare and Institutions Code, as amended by Section 1 of Chapter 440 of the Statutes of 2010, is amended to read:

305.6. (a) Any peace officer may, without a warrant, take into temporary custody a minor who is in a hospital if the release of the minor to a prospective adoptive parent or a representative of a licensed adoption agency poses an immediate danger to the minor's health or safety.

(b) (1) Notwithstanding subdivision (a) and Section 305, a peace officer may not, without a warrant, take into temporary custody a minor who is in a hospital if all of the following conditions exist:

(A) The minor is a newborn who tested positive for illegal drugs or whose birth mother tested positive for illegal drugs.

(B) The minor is the subject of a proposed adoption and a Health Facility Minor Release Report, prescribed by the department, has been completed by the hospital, including the marking of the boxes applicable to an independent adoption or agency adoption planning, and signed by the placing birth parent or birth parents, as well as either the prospective adoptive parent or parents or an authorized representative of a licensed adoption agency, prior to the discharge of the birth parent or the minor from the hospital. Prior to signing the Health Facility Minor Release Report, the birth parent or parents shall be given a notice written in at least 14-point pica type, containing substantially the following statements:

(i) That the Health Facility Minor Release Report does not constitute consent to adoption of the minor by the prospective adoptive parent or parents, or any other person.

(ii) That the Health Facility Minor Release Report does not constitute a relinquishment of parental rights for the purposes of adoption.

(iii) That the birth parent or parents or any person authorized by the birth parent or parents may reclaim the minor at any time from the prospective adoptive parent or parents or any other person to whom the minor was released by the hospital, as provided in Sections 8814.5, 8815, or 8700 of the Family Code.

This notice shall be signed by the birth parent or parents and attached to the Health Facility Minor Release Report, a copy of which shall be provided to the birth parent or parents by hospital personnel at the time the form is completed.

(C) The release of the minor to a prospective adoptive parent or parents or an authorized representative of a licensed adoption agency does not pose an immediate danger to the minor.

(D) An attorney or an adoption agency has provided documentation stating that he or she, or the agency, is representing the prospective adoptive parent or parents for purposes of the adoption. In the case of an independent adoption, as defined in Section 8524 of the Family Code, the attorney or adoption agency shall provide documentation stating that the prospective adoptive parent or parents have been informed that the child may be eligible for benefits provided pursuant to the Adoption Assistance Program, as set forth in Chapter 2.1 (commencing with Section 16115) of

Part 4 of Division 9, only if, at the time the adoption request is filed, the child has met the requirements to receive federal supplemental security income benefits pursuant to Subchapter XVI (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.

(E) The prospective adoptive parent or parents or their representative, or an authorized representative of a licensed adoption agency, provides all of the following to the peace officer who is at the hospital to take the minor into temporary custody:

(i) A fully executed copy of the Health Facility Minor Release Report.

(ii) A written form, developed by the department, signed by either the prospective adoptive parent or parents or a representative of the licensed adoption agency, which shall include all of the following:

(I) A statement that the minor is the subject of a proposed adoption.

(II) A declaration that the signer or signers will immediately notify the county child welfare agency pursuant to Section 11165.9 of the Penal Code if the adoption plan is terminated for any reason, and will not release the minor to the birth parent or parents or any designee of the birth parent or parents until the county child welfare agency or local law enforcement agency completes an investigation and determines that release of the minor to the birth parent or parents or a designee of the birth parent or parents will not create an immediate risk to the health or safety of the minor.

(III) An agreement to provide a conformed copy of the adoption request or guardianship petition to the county child welfare agency within five business days after filing.

(IV) The names, identifying information, and contact information for the minor, for each prospective adoptive parent, and for each birth parent, to the extent that information is known. In the case of an agency adoption where no prospective adoptive parent or parents are identified at the time of the minor's release from the hospital, the licensed adoption agency may provide the information as it pertains to the licensed or certified foster home into which the agency intends to place the minor.

(c) (1) In every independent adoption proceeding under this section, the prospective adoptive parent or parents shall file with

the court either an adoption request within 10 working days after execution of an adoption placement agreement, or a guardianship petition within 30 calendar days after the child's discharge from the hospital, whichever is earlier.

(2) If the adoption plan for a minor who was released from the hospital pursuant to subdivision (b) is terminated for any reason, the prospective adoptive parent or parents or licensed adoption agency shall immediately notify the county child welfare agency. The prospective adoptive parent or parents or licensed adoption agency may not release the minor into the physical custody of the birth parent or parents, or any designee of the birth parent or parents, until the county child welfare agency or local law enforcement agency completes an investigation and determines that release of the minor to the birth parent or parents or a designee of the birth parent or parents will not create an immediate risk to the health or safety of the minor.

(d) Nothing in this section is intended to create a duty that requires law enforcement to investigate the prospective adoptive parent or parents.

~~(e) This section shall remain in effect only until January 1, 2013, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2013, deletes or extends that date.~~

SEC. 44. Section 305.6 of the Welfare and Institutions Code, as added by Section 2 of Chapter 440 of the Statutes of 2010, is repealed.

~~305.6. (a) Any peace officer may, without a warrant, take into temporary custody a minor who is in a hospital if the release of the minor to a prospective adoptive parent poses an immediate danger to the minor's health or safety.~~

~~(b) (1) Notwithstanding subdivision (a) and Section 305, a peace officer may not, without a warrant, take into temporary custody a minor who is in a hospital if all of the following conditions exist:~~

~~(A) The minor is a newborn who tested positive for illegal drugs or whose birth mother tested positive for illegal drugs.~~

~~(B) The minor is the subject of a petition for adoption and a Health Facility Minor Release Report, prescribed by the department, has been completed by the hospital, including the marking of the boxes applicable to an independent adoption or agency adoption planning, and signed by the placing birth parent~~

~~or birth parents and the prospective adoptive parent or parents, prior to the discharge of the birth parent or the minor from the hospital. Prior to signing the Health Facility Minor Release Report, the birth parent or birth parents shall be given a notice written in at least 14-point pica type, containing substantially the following statements:~~

~~(i) That the Health Facility Minor Release Report does not constitute consent to adoption of the minor by the prospective adoptive parent or parents, or any other prospective adoptive parent or parents.~~

~~(ii) That the Health Facility Minor Release Report does not constitute a relinquishment of parental rights for the purposes of adoption.~~

~~(iii) That the birth parent or birth parents or any person authorized by the birth parent or birth parents may reclaim the minor at any time from the prospective adoptive parent or parents or any other person to whom the minor was released by the hospital, until an adoption placement agreement or a relinquishment is signed by the birth parent or birth parents.~~

~~This notice shall be signed by the birth parent or birth parents and attached to the Health Facility Minor Release Report.~~

~~(C) The release of the minor to a prospective adoptive parent or parents does not pose an immediate danger to the minor.~~

~~(D) An attorney or an adoption agency has provided documentation stating that he or she, or the agency, is representing the prospective adoptive parent or parents for purposes of the adoption. In the case of an independent adoption, as defined in Section 8524 of the Family Code, the attorney or adoption agency shall provide documentation stating that the prospective adoptive parent or parents have been informed that the child may be eligible for benefits provided pursuant to the Adoption Assistance Program, as set forth in Chapter 2.1 (commencing with Section 16115) of Part 4 of Division 9, only if, at the time the petition is filed, the child has met the requirements to receive federal supplemental security income benefits pursuant to Subchapter XVI (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.~~

~~(E) The prospective adoptive parent or parents or their representative provides a copy of the Health Facility Minor Release~~

~~Report with the signed notice to the birth parent or birth parents as described in subparagraph (B) and a copy of the petition for adoption to the local child protective services agency or to the peace officer who is at the hospital to take the minor into temporary custody.~~

~~(2) Notwithstanding Section 305 or subdivision (a) of this section, a peace officer may not, without a warrant, take into temporary custody a minor who is in a hospital if all of the following conditions exist:~~

~~(A) The minor is a newborn who tested positive for illegal drugs or whose birth mother tested positive for illegal drugs.~~

~~(B) The minor is the subject of a petition for adoption and a prospective adoptive parent or prospective adoptive parents have been licensed to act as a foster parent or foster parents of the minor pending finalization of the petition for adoption.~~

~~(C) The release of the minor to the prospective adoptive parent or prospective adoptive parents does not pose an immediate danger to the minor.~~

~~(D) The prospective adoptive parent or parents or their representative provides a copy of the petition for adoption and documents evidencing licensure as a foster parent or foster parents to the local child protective services agency or to the peace officer who is at the hospital to take the minor into temporary custody.~~

~~(3) If at the time the minor is released to the custody of a prospective adoptive parent or parents or their representative pursuant to paragraph (1) or (2), the petition for adoption of the minor has not been filed with the court, the petition for adoption shall be filed within 15 calendar days of the date the birth parent was released from the hospital.~~

~~(4) A copy of an adoption placement agreement signed by the placing birth parent or birth parents and the prospective adoptive parent or parents may be used in place of the Health Facility Minor Release Report and notice to the birth parent or birth parents as described in subparagraph (B) of paragraph (1).~~

~~(c) Nothing in this section is intended to create a duty that requires law enforcement to investigate the prospective adoptive parent or parents.~~

~~(d) This section shall become operative on January 1, 2013.~~

SEC. 45. Section 358.1 of the Welfare and Institutions Code, as amended by Section 9 of Chapter 559 of the Statutes of 2010, is amended to read:

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

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

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

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

(d) (1) Whether the child has 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.

(2) The factual discussion shall include a discussion of indicators of the nature of the child's sibling relationships, including, but 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 interest.

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

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

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

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

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

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

(k) On and after the date that the director executes a declaration pursuant to Section 11217, whether the child has been placed in an approved relative's home under a voluntary placement agreement for a period not to exceed 180 days, the parent or guardian is not interested in additional family maintenance or family reunification services, and the relative desires and is willing to be appointed the child's legal guardian.

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

SEC. 46. Section 358.1 of the Welfare and Institutions Code, as amended by Section 10 of Chapter 559 of the Statutes of 2010, is repealed.

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

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

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

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

~~(d) (1) Whether the child has 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.~~

~~(2) The factual discussion shall include a discussion of indicators of the nature of the child's sibling relationships, including, but 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 interest.~~

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

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

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

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

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

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

~~(k) On and after the date that the director executes a declaration pursuant to Section 11217, whether the child has been placed in an approved relative's home under a voluntary placement agreement for a period not to exceed 180 days, the parent or guardian is not interested in additional family maintenance or family reunification services, and the relative desires and is willing to be appointed the child's legal guardian.~~

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

SEC. 47. 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, the court shall at the same time appoint a responsible adult to make educational or developmental services decisions for the child until one of the following occurs:

(1) The minor reaches 18 years of age, unless the child 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, or Section 366.26, 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 in matters related to developmental services.

An individual who would have a conflict of interest in representing the child 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 information and records pursuant to subdivision (u) of Section 4514 and subdivision (y) of Section 5328, and to act on the child'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, the court may, with the input of any interested person, make developmental services decisions for the child. 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 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 ~~licensed~~ 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. 48. Section 361.5 of the Welfare and Institutions Code, as amended by Section 1 of Chapter 59 of the Statutes of 2011, 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, 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 ~~licensed~~ county adoption agency, or the State Department of Social Services when it is acting as an adoption agency ~~in counties that are not served by a county 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.

(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 ~~customary~~ 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.

(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, 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.

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

SEC. 49. Section 361.5 of the Welfare and Institutions Code, as amended by Section 2 of Chapter 59 of the Statutes of 2011, is repealed.

~~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, 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 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, it shall direct the agency supervising the child and the licensed county adoption agency, or the State Department of Social Services when it is acting as an adoption agency in counties that are not served by a county 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, 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.~~

~~(E) The relationship of the child to any identified prospective adoptive parent or 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 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.~~

~~(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.~~

~~(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, 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.~~

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

SEC. 50. Section 366.21 of the Welfare and Institutions Code, as amended by Section 3 of Chapter 59 of the Statutes of 2011, 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 ~~in counties that are not served by a county adoption agency~~

or by a ~~licensed~~ 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 ~~licensed~~ *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 ~~in counties that are not served by a county adoption agency~~ or by a ~~licensed~~ 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.

(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 ~~in counties that are not served by a county adoption agency~~ or by a ~~licensed~~ 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 ~~in counties that are not served by a county adoption agency~~ or by a ~~licensed~~ 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 ~~licensed~~ county adoption agency, or the State Department of Social Services when it is acting as an adoption agency ~~in counties that are not served by a county 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 customary tribal 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.

(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.

(*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.

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

SEC. 51. Section 366.21 of the Welfare and Institutions Code, as amended by Section 4 of Chapter 59 of the Statutes of 2011, is repealed.

~~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 in counties that are not served by a county adoption agency or by a licensed 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, 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 licensed 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 in counties that are not served by a county adoption agency or by a licensed 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 or after January 1, 2012, a hearing pursuant to Section 366.26 shall not be ordered if the child is a nonminor dependent.~~

~~(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 in counties that are not served by a county~~

~~adoption agency or by a licensed 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 in counties that are not served by a county adoption agency or by a licensed 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 shall be held, it shall direct the agency supervising the child and the licensed county adoption agency, or the State Department of Social Services when it is acting as an adoption agency in counties that are not served by a county 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, 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.~~

~~(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.~~

~~(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.~~

~~(*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.~~

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

SEC. 52. Section 366.22 of the Welfare and Institutions Code, as amended by Section 18 of Chapter 559 of the Statutes of 2010, 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. 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 ~~in counties that are not served by a county adoption agency~~ or by a ~~licensed~~ 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 ~~licensed~~ county adoption agency, or the State Department of Social Services when it is acting as an adoption agency ~~in counties that are not served by a county 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 ~~customary~~ 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.

(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.

(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.

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

SEC. 53. Section 366.22 of the Welfare and Institutions Code, as amended by Section 19 of Chapter 559 of the Statutes of 2010, is repealed.

~~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, 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. 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 in counties that are not served by a county adoption agency or by a licensed 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 shall be held, it shall direct the agency supervising the child and the licensed county adoption agency, or the State Department of Social Services when it is acting as an adoption agency in counties that are not served by a county 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.~~

~~(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.~~

~~(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.~~

~~(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.~~

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

SEC. 54. Section 366.24 of the Welfare and Institutions Code is amended to read:

366.24. (a) 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.

(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 ~~licensed~~ county adoption agency, the State Department of Social Services when it is acting as an adoption agency ~~in counties not served by a county 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 ~~and any~~, *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 ~~and any other~~, *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 ~~licensed~~ 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 ~~and any~~, *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.

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

SEC. 55. Section 366.25 of the Welfare and Institutions Code, as amended by Section 20 of Chapter 559 of the Statutes of 2010, 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. 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 ~~in counties that are not served by a county adoption agency~~ or by a ~~licensed~~ 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 ~~licensed~~ county adoption agency, or the State Department of Social Services when it is acting as an adoption agency ~~in counties that are not served by a county 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 ~~customary~~ 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.

(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.

(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.

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

SEC. 56. Section 366.25 of the Welfare and Institutions Code, as amended by Section 21 of Chapter 559 of the Statutes of 2010, is repealed.

~~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, 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. 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 in counties that are not served by a county adoption agency or by a licensed 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 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 licensed county adoption agency, or the State Department of Social Services when it is acting as an adoption agency in counties that are not served by a county 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, 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, 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.~~

~~(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.~~

~~(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.~~

~~(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.~~

~~(f) This section shall become operative on January 1, 2014.~~

SEC. 57. Section 366.26 of the Welfare and Institutions Code, as amended by Section 15 of Chapter 287 of the Statutes of 2009, 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.

(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 ~~a~~ 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 ~~licensed~~ 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 ~~and the~~, *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 ~~a~~ 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.

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

SEC. 58. Section 366.26 of the Welfare and Institutions Code, as added by Section 16 of Chapter 287 of the Statutes of 2009, is repealed.

~~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) 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.~~

~~(3) On making a finding under paragraph (3) of subdivision (c), identify 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.~~

~~(4) Appoint a nonrelative legal guardian for the child and order that letters of guardianship issue.~~

~~(5) 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, or another planned permanent living arrangement for the child.~~

~~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.~~

~~(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) or (4) 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 or order that the child remain in long-term foster care. 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. 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) 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.~~

~~(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 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 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, the court shall at the same time order the child referred to the State Department of Social Services or a licensed adoption agency for adoptive placement by the agency. However, 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 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 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 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 licensed 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 and the 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 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 or a 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.~~

~~(p) This section shall become operative on January 1, 2014.~~

SEC. 59. Section 366.3 of the Welfare and Institutions Code, as amended by Section 22 of Chapter 559 of the Statutes of 2010, is amended to read:

366.3. (a) If a juvenile court orders a permanent plan of adoption, tribal customary adoption, or legal guardianship pursuant to Section 360 or 366.26, the court shall retain jurisdiction over the child until the child is adopted or the legal guardianship is established, except as provided for in Section 366.29 or, on and after January 1, 2012, Section 366.31. The status of the child 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 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. 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 ~~licensed~~ county adoption agency, or the State Department of Social Services if it is acting as an adoption agency ~~in counties that are not served by a county 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 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 for the child, the court shall at the same time appoint a responsible adult to make educational 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 ~~licensed~~ county adoption agency, or the department when it is acting as an adoption agency ~~in counties that are not served by a county 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 ~~licensed~~ county adoption agency, or the State Department of Social Services when it is acting as an adoption agency ~~in counties that are not served by a county 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. The court may order that a nonminor dependent who otherwise is eligible pursuant to Section 11403 remain in a planned, permanent living arrangement.

(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.

(*l*) On and after January 1, 2012, 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, the report shall describe all of the following:

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

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

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

(m) On and after January 1, 2012, the reviews conducted pursuant to subdivisions (e) and (h) for any nonminor dependent shall be conducted in a manner that respects the nonminor's status as a legal adult, be focused on the goals and services described in the youth's transitional independent living case plan, including efforts made to achieve permanence, including maintaining or obtaining permanent connections with caring and committed adults, and attended as appropriate by additional participants invited by the nonminor dependent. The review shall include all the issues in subdivision (e), except paragraph (5) of subdivision (e). The county child welfare or probation department, or Indian tribe that has entered into an agreement pursuant to Section 10553.1 shall prepare and present to the reviewing body a report that addresses the youth's progress in meeting the goals in the transitional independent living case plan and propose modifications as necessary to further those goals. 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.

(n) On and after January 1, 2012, if a review hearing pursuant to this section is the last review hearing to be held before the child attains 18 years of age, the court shall ensure all of the following:

(1) That the child's transitional independent living case plan includes a plan for the child to satisfy one or more of the criteria set forth in subdivision (b) of Section 11403, so that the child is eligible to remain a nonminor dependent.

(2) That the child 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) That the child 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.

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

SEC. 60. Section 366.3 of the Welfare and Institutions Code, as amended by Section 23 of Chapter 559 of the Statutes of 2010, is repealed.

~~366.3. (a) If a juvenile court orders a permanent plan of adoption or legal guardianship pursuant to Section 360 or 366.26, the court shall retain jurisdiction over the child until the child is adopted or the legal guardianship is established, except as provided for in Section 366.29 or, on and after January 1, 2012, Section 366.31. The status of the child 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 has been granted, the court shall terminate its jurisdiction over the child. 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 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 licensed county adoption agency, or the State Department of Social Services if it is acting as an adoption agency in counties that are not served by a county 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 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 for the child, the court shall at the same time appoint a responsible adult to make educational 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, or in another planned permanent living arrangement.~~

~~(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.~~

~~(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, 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 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 licensed county adoption agency, or the department when it is acting as an adoption agency in counties that are not served by a county 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 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 licensed county adoption agency, or the State Department of Social Services when it is acting as an adoption agency in counties that are not served by a county 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, 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. The court may order that a nonminor dependent who otherwise is eligible pursuant to Section 11403 remain in a planned, permanent living arrangement.~~

~~(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.~~

~~(*l*) On and after October 1, 2012, 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, the report shall describe all of the following:~~

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

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

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

~~(m) On and after January 1, 2012, the reviews conducted pursuant to subdivisions (e) and (h) for any nonminor dependent shall be conducted in a manner that respects the nonminor's status as a legal adult, be focused on the goals and services described in the youth's transitional independent living case plan, including efforts made to maintain connections with caring and permanently committed adults, and attended as appropriate by additional participants invited by the nonminor dependent. The review shall include all the issues in subdivision (e), except paragraph (5) of subdivision (e). The county child welfare or probation department, or Indian tribe that has entered into an agreement pursuant to Section 10553.1 shall prepare and present to the reviewing body a report that addresses the youth's progress in meeting the goals in the transitional independent living case plan and propose modifications as necessary to further those goals. 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.~~

~~(n) On and after January 1, 2012, if a review hearing pursuant to this section is the last review hearing to be held before the child attains 18 years of age, the court shall ensure all of the following:~~

~~(1) That the child's transitional independent living case plan includes a plan for the child to satisfy one or more of the criteria set forth in subdivision (b) of Section 11403, so that the child is eligible to remain a nonminor dependent.~~

~~(2) That the child 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) That the child 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.~~

~~(o) This section shall become operative on January 1, 2014.~~

SEC. 61. Section 450 of the Welfare and Institutions Code is amended to read:

450. (a) A minor or nonminor who satisfies all of the following criteria is within the transition jurisdiction of the juvenile court:

(1) *(A)* The minor is a ward who is older than 17 years and 5 months of age and younger than 18 years of age and in foster care placement, or the nonminor is a ward in foster care placement who was a ward subject to an order for foster care placement on the day he or she attained 18 years of age and on and after January 1, 2012, 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.

(B) Notwithstanding subparagraph (A), the nonminor is a ward who has been receiving aid pursuant to Article 5 (commencing with Section 11400) of Chapter 2 of Part 3 of Division 9 between January 1, 2012, and December 31, 2012, and attains 19 years of age prior to January 1, 2013, or who has been receiving that aid between January 1, 2013, and December 31, 2013, and attains 20 years of age prior to January 1, 2014, and who may continue to receive aid under the applicable program, provided that the nonminor dependent continues to meet all other applicable eligibility requirements as specified in Section 11403.

(2) The ward meets either of the following conditions:

(A) The ward was removed from the physical custody of his or her parents or legal guardian, adjudged to be a ward of the juvenile court under Section 725, and ordered into foster care placement as a ward.

(B) The ward was removed from the custody of his or her parents or legal guardian as a dependent of the court with an order for foster care placement as a dependent in effect at the time the court adjudged him or her to be a ward of the juvenile court under Section 725.

(3) The rehabilitative goals of the minor or nonminor, as set forth in the case plan, have been met, and juvenile court jurisdiction over the minor or nonminor as a ward is no longer required.

(4) (A) If the ward is a minor, reunification services have been terminated; the matter has not been set for a hearing for termination of parental rights pursuant to Section 727.3 or for the establishment of guardianship pursuant to Section 728; the return of the child to the physical custody of the parents or legal guardian would create a substantial risk of detriment to the child's safety, protection, or physical or emotional well-being; and the minor has indicated an intent to sign a mutual agreement, as described in subdivision (u) of Section 11400, with the responsible agency for placement in a supervised setting as a nonminor dependent.

(B) If the ward is a nonminor, he or she has signed a mutual agreement, as described in subdivision (u) of Section 11400, with the responsible agency for placement in a supervised setting as a nonminor dependent or has signed a voluntary reentry agreement, as described in subdivision (z) of Section 11400 for placement in a supervised setting as a nonminor dependent.

(b) A minor who is subject to the court's transition jurisdiction shall be referred to as a transition dependent.

(c) A youth subject to the court's transition jurisdiction who is 18 years of age or older shall be referred to as a nonminor dependent.

SEC. 62. Section 727.3 of the Welfare and Institutions Code is amended to read:

727.3. The purpose of this section is to provide a means to monitor the safety and well-being of every minor in foster care who has been declared a ward of the juvenile court pursuant to Section 601 or 602 and to ensure that everything reasonably

possible is done to facilitate the safe and early return of the minor to his or her own home or to establish an alternative permanent plan for the minor.

(a) (1) For every minor declared a ward and ordered to be placed in foster care, a permanency planning hearing shall be conducted within 12 months of the date the minor entered foster care, as defined in paragraph (4) of subdivision (d) of Section 727.4. Subsequent permanency planning hearings shall be conducted periodically, but no less frequently than once every 12 months thereafter during the period of placement. It shall be the duty of the probation officer to prepare a written social study report including an updated case plan and a recommendation for a permanent plan, pursuant to subdivision (c) of Section 706.5, and submit the report to the court prior to each permanency planning hearing, pursuant to subdivision (b) of Section 727.4.

(2) Prior to any permanency planning hearing involving a minor in the physical custody of a community care facility or foster family agency, the facility or agency may file with the court a report containing its recommendations, in addition to the probation officer's social study. Prior to any permanency planning hearing involving the physical custody of a foster parent, relative caregiver, preadoptive parent, or legal guardian, that person may present to the court a report containing his or her recommendations. The court shall consider all reports and recommendations filed pursuant to this subdivision.

(3) If the minor has a continuing involvement with his or her parents or legal guardians, the parents or legal guardians shall be involved in the planning for a permanent placement. The court order placing the minor in a permanent placement shall include a specification of the nature and frequency of visiting arrangements with the parents or legal guardians.

(4) At each permanency planning hearing, the court shall order a permanent plan for the minor, as described in subdivision (b). The court shall also make findings, as described in subdivision (e) of Section 727.2. In the case of a minor who has reached 16 years of age or older, the court shall, in addition, determine the services needed to assist the minor to make the transition from foster care to independent living. The court shall make all of these determinations on a case-by-case basis and make reference to the

probation officer's report, the case plan, or other evidence relied upon in making its decisions.

(b) At all permanency planning hearings, the court shall determine the permanent plan for the minor. The court shall order one of the following permanent plans, which are, in order of priority:

(1) Return of the minor to physical custody of the parent or legal guardian. The court shall order the return of the minor to the physical custody of his or her parent or legal guardian unless:

(A) Reunification services were not offered, pursuant to subdivision (b) of Section 727.2.

(B) The court finds, by a preponderance of the evidence, that the return of the minor 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 minor. The probation department shall have the burden of establishing that detriment. In making its determination, the court shall review and consider the social study report and recommendations pursuant to Section 706.5, the report and recommendations of any child advocate appointed for the minor in the case, and any other reports submitted pursuant to paragraph (2) of subdivision (a), and shall consider the efforts or progress, or both, demonstrated by the minor and family and the extent to which the minor availed himself or herself of the services provided.

(2) Order that the permanent plan for the minor will be to return the minor to the physical custody of the parent or legal guardian, order further reunification services to be provided to the minor and his or her parent or legal guardian for a period not to exceed six months and continue the case for up to six months for a subsequent permanency planning hearing, provided that the subsequent hearing shall occur within 18 months of the date the minor was originally taken from 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 minor 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 guardian. For purposes of this section, in order to find that there is a substantial probability that the minor will be returned to the physical custody of his or her parent or legal

guardian, the court shall be required to find that the minor and his or her parent or legal guardian have demonstrated the capacity and ability to complete the objectives of the case plan.

The court shall inform the parent or legal guardian that if the minor cannot be returned home by the next permanency planning hearing, a proceeding pursuant to Section 727.31 may be initiated.

The court shall not continue the case for further reunification services if it has been 18 months or more since the date the minor was originally taken from the physical custody of his or her parent or legal guardian.

(3) Identify adoption as the permanent plan and order that a hearing be held within 120 days, pursuant to the procedures described in Section 727.31. The court shall only set a hearing pursuant to Section 727.31 if there is clear and convincing evidence that reasonable services have been provided or offered to the parents. When the court sets a hearing pursuant to Section 727.31, it shall order that an adoption assessment report be prepared, pursuant to subdivision (b) of Section 727.31.

(4) Order a legal guardianship, pursuant to procedures described in subdivisions (c) to (f), inclusive, of Section 728.

(5) Place the minor with a fit and willing relative. "Placement with a fit and willing relative" means placing the minor with an appropriate relative on a permanent basis. When a minor is placed with a fit and willing relative, the court may authorize the relative to provide the same legal consent for the minor's medical, surgical, and dental care, and education as the custodial parent of the minor.

(6) Place the minor in a planned permanent living arrangement. A "planned permanent living arrangement" means any permanent living arrangement described in Section 11402 and not listed in paragraphs (1) to (5), inclusive, such as placement in a specific, identified foster family home, program, or facility on a permanent basis, or placement in a transitional housing placement facility. When the court places a minor in a planned permanent living arrangement, the court shall specify the goal of the placement, which may include, but shall not be limited to, return home, emancipation, guardianship, or permanent placement with a relative.

The court shall only order that the minor remain in a planned permanent living arrangement if the court finds by clear and convincing evidence, based upon the evidence already presented

to it that there is a compelling reason, as defined in subdivision (c), for determining that a plan of termination of parental rights and adoption is not in the best interest of the minor.

(c) A compelling reason for determining that a plan of termination of parental rights and adoption is not in the best interest of the minor is any of the following:

(1) Documentation by the probation department that adoption is not in the best interest of the minor and is not an appropriate permanency goal. That documentation may include, but is not limited to, documentation that:

(A) The minor is 12 years of age or older and objects to termination of parental rights.

(B) The minor is 17 years of age or older and specifically requests that transition to independent living with the identification of a caring adult to serve as a lifelong connection be established as his or her permanent plan. On and after January 1, 2012, this includes a minor who requests that his or her transitional independent living case plan include modification of his or her jurisdiction to that of dependency jurisdiction pursuant to subdivision (b) of Section 607.2 or subdivision (i) of Section 727.2, or to that of transition jurisdiction pursuant to Section 450, in order to be eligible as a nonminor dependent for the extended benefits pursuant to Section 11403.

(C) The parent or guardian and the minor have a significant bond, but the parent or guardian is unable to care for the minor because of an emotional or physical disability, and the minor's caregiver has committed to raising the minor to the age of majority and facilitating visitation with the disabled parent or guardian.

(D) The minor agrees to continued placement in a residential treatment facility that provides services specifically designed to address the minor's treatment needs, and the minor's needs could not be served by a less restrictive placement.

The probation department's recommendation that adoption is not in the best interest of the minor shall be based on the present family circumstances of the minor and shall not preclude a different recommendation at a later date if the minor's family circumstances change.

(2) Documentation by the probation department that no grounds exist to file for termination of parental rights.

(3) Documentation by the probation department that the minor is an unaccompanied refugee minor, or there are international legal obligations or foreign policy reasons that would preclude terminating parental rights.

(4) A finding by the court that the probation department was required to make reasonable efforts to reunify the minor with the family pursuant to subdivision (a) of Section 727.2, and did not make those efforts.

(5) Documentation by the probation department that the minor is living with a relative who is unable or unwilling to adopt the minor because of exceptional circumstances that do not include an unwillingness to accept legal or financial responsibility for the minor, but who is willing and capable of providing the minor with a stable and permanent home environment, and the removal of the minor from the physical custody of his or her relative would be detrimental to the minor's emotional well-being.

(d) Nothing in this section shall be construed to limit the ability of a parent to voluntarily relinquish his or her child to the State Department of Social Services when it is acting as an adoption agency ~~in counties that are not served by a county adoption agency~~ or to a ~~licensed~~ county adoption agency at any time while the minor is a ward of the juvenile court if the department or *county adoption* agency is willing to accept the relinquishment.

(e) Any change in the permanent plan of a minor placed with a fit and willing relative or in a planned permanent living arrangement shall be made only by order of the court pursuant to a Section 778 petition or at a regularly scheduled and noticed status review hearing or permanency planning hearing. Any change in the permanent plan of a minor placed in a guardianship shall be made only by order of the court pursuant to a motion filed in accordance with Section 728.

SEC. 63. Section 727.31 of the Welfare and Institutions Code is amended to read:

727.31. (a) This section applies to all minors placed in out-of-home care pursuant to Section 727.2 or 727.3 and for whom the juvenile court orders a hearing to consider permanently terminating parental rights to free the minor for adoption.

Except for subdivision (j) of Section 366.26, the procedures for permanently terminating parental rights for minors described by this section shall proceed exclusively pursuant to Section 366.26.

At the beginning of any proceeding pursuant to this section, if the minor is not being represented by previously retained or appointed counsel, the court shall appoint counsel to represent the minor, and the minor shall be present in court unless the minor or the minor's counsel so requests and the court so orders. 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 minor and the parent. Private counsel appointed under this section shall receive a reasonable sum for compensation and expenses as specified in subdivision (f) of paragraph (3) of Section 366.26.

(b) Whenever the court orders that a hearing pursuant to this section shall be held, it shall direct the agency supervising the minor and the ~~licensed~~ county adoption agency, or the State Department of Social Services when it is acting as an adoption agency ~~in counties that are not served by a county adoption agency~~, to prepare an assessment that shall include all of the following:

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

(2) A review of the amount and nature of any contact between the minor 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 minor shall be reviewed on a case-by-case basis, "extended family" for the purpose of the paragraph shall include, but not be limited to, the minor's siblings, grandparents, aunts, and uncles.

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

(4) A preliminary assessment of the eligibility and commitment of any identified prospective adoptive parent or 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 minor'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 Section 361.4.

(5) The relationship of the minor to any identified prospective adoptive parent or 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 minor concerning placement and the adoption or guardianship, and whether the minor, if over 12 years of age, has been consulted about the proposed relative guardianship arrangements, unless the minor's age or physical, emotional, or other condition precludes his or her meaningful response, and if so, a description of the condition.

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

(c) 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. 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.

(d) 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) For purposes of 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.

(f) Whenever the court orders that a hearing pursuant to procedures described in this section be held, it shall order that the ~~licensed~~ county adoption agency, or the State Department of Social Services when it is acting as an adoption agency ~~in counties that are not served by a county adoption agency~~, has exclusive

responsibility for determining the adoptive placement and making all adoption-related decisions.

(g) If the court, by order of judgment declares the minor free from the custody and control of both parents, or one parent if the other does not have custody and control, the court shall at the same time order the minor referred to the State Department of Social Services when it is acting as an adoption agency ~~in counties that are not served by a county adoption agency~~ or a ~~licensed~~ county adoption agency for adoptive placement by the agency. The order shall state that responsibility for custody of the minor shall be held jointly by the probation department and the State Department of Social Services when it is acting as an adoption agency ~~in counties that are not served by a county adoption agency~~ or the ~~licensed~~ county adoption agency. The order shall also state that the State Department of Social Services when it is acting as an adoption agency ~~in counties that are not served by a county adoption agency~~ or the ~~licensed~~ county adoption agency has exclusive responsibility for determining the adoptive placement and for making all adoption-related decisions. However, no petition for adoption may be granted until the appellate rights of the natural parents have been exhausted.

(h) The notice procedures for terminating parental rights for minors described by this section shall proceed exclusively pursuant to Section 366.23.

SEC. 64. Section 10101 of the Welfare and Institutions Code is amended to read:

10101. (a) For the 1991–92 fiscal year and each fiscal year thereafter, the state's share of the costs of the child welfare program shall be 70 percent of the actual nonfederal expenditures for the program or the amount appropriated by the Legislature for that purpose, whichever is less.

~~(b) Federal funds received under Title 20 of the federal Social Security Act (42 U.S.C. Sec. 1397 et seq.) and appropriated by the Legislature for child welfare services shall be considered part of the state share of cost and not part of the federal expenditures for this program.~~

~~(c) Notwithstanding subdivision (a), the amount of funds appropriated from the General Fund in the annual Budget Act that equates to the amount claimed under the Emergency Assistance Program that has been included in the state's Temporary Assistance~~

~~for Needy Families block grant for child welfare services shall be considered federal funds for the purposes of calculating the county's share of cost, provided the expenditure of these funds contributes to the state meeting its federal maintenance of effort requirements.~~

(b) Notwithstanding subdivision (a), 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.

SEC. 65. Section 10101.2 of the Welfare and Institutions Code is amended to read:

10101.2. ~~The~~ *(a) Prior to the 2011–12 fiscal year the* state's share of the costs for the support and care of former dependent children who have been made wards of related guardians under Article 4.5 (commencing with Section 11360), or Article 4.7 (commencing with Section 11385), of Chapter 2 of Part 3, shall be 79 percent of the nonfederal share of the amounts as specified in Sections 11364 and 11387.

(b) Notwithstanding subdivision (a), 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.

SEC. 66. Section 10103 of the Welfare and Institutions Code is amended to read:

10103. All federal funds under Title IV-B of the Social Security Act, which are appropriated to the state shall be passed on to the counties, except for those reasonable funds needed to finance a required statewide ~~foster care management~~ information system. ~~In passing on federal funds to the counties, the state shall not require counties to provide matching funds in amounts greater than the amount required of the state by the federal government.~~

SEC. 67. Section 10103.5 is added to the Welfare and Institutions Code, to read:

10103.5. (a) Notwithstanding the age restrictions specified in Sections 388, 450, 11253, 11363, 11386, 11403, 11403.2, 11405, and 16120, and subdivisions (r) and (v) of Section 11400, a nonminor dependent, or nonminor former dependent, who has been receiving aid pursuant to any of the programs specified in

subdivision (b) between January 1, 2012, and December 31, 2012, and who attains 19 years of age prior to January 1, 2013, or who has been receiving that aid between January 1, 2013, and December 31, 2013, and who attains 20 years of age prior to January 1, 2014, may continue to receive aid under the applicable program up to 21 years of age, provided that the nonminor dependent or nonminor former dependent continues to meet all other applicable eligibility requirements as specified in Section 11403. This section shall not apply to nonminors who attain 19 years of age prior to January 1, 2012.

(b) This section applies to nonminors currently receiving aid, as of the effective date of the act that added this section, pursuant to any of the following provisions:

(1) Article 4.5 (commencing with Section 11360) of Chapter 2 of Part 3 of Division 9.

(2) Article 4.7 (commencing with Section 11385) of Chapter 2 of Part 3 of Division 9.

(3) Article 5 (commencing with Section 11400) of Chapter 2 of Part 3 of Division 9.

(4) Chapter 2.1 (commencing with Section 16115) of Part 4 of Division 9.

(5) Sections 11253 and 11405.

(c) A nonminor who has not continuously received aid pursuant to either paragraph (3) of subdivision (b) of this section, or Section 11253 between January 1, 2012, and December 31, 2012, due solely to the fact that he or she attained 19 years of age prior to the effective date of the act that added this section may petition the court for reentry pursuant to subdivision (e) of Section 388. This section shall not apply to nonminors who attain 19 years of age prior to January 1, 2012. For a nonminor who has not continuously received aid pursuant to paragraphs (1), (2), or (4) of subdivision (b) of this section, or Section 11405, due solely to the fact that he or she attained 19 years of age prior to the effective date that added this section, the department, in consultation with the County Welfare Directors Association, shall develop a process by which these youth may resume benefits. The department shall seek to maximize federal financial participation.

(d) Notwithstanding any other law, and to the extent permitted by federal law, a county shall not be precluded from seeking to draw down federal funding on behalf of eligible nonminor

dependents or nonminor former dependents as described in subdivision (a), for whom the county has provided aid using county-only funds, on and after January 1, 2012.

SEC. 68. Section 10104 is added to the Welfare and Institutions Code, to read:

10104. It is the intent of the Legislature to ensure that the impacts of the 2011 realignment of child welfare services, foster care, adoptions, and adult protective services programs are identified and evaluated, initially and over time. It is further the intent of the Legislature to ensure that information regarding these impacts is publicly available and accessible and can be utilized to support the state's and counties' effectiveness in delivering these critical services and supports.

(a) The State Department of Social Services shall annually report to the appropriate fiscal and policy committees of the Legislature, and publicly post on the department's Internet Web site, a summary of outcome and expenditure data that allows for monitoring of changes over time.

(b) The report shall be submitted and posted by April 15 of each year and shall contain expenditures for each county for the programs described in clauses (i) to (vii), inclusive, of subparagraph (A) of paragraph (9) of subdivision (f) of Section 30025 of the Government Code.

(c) The department shall consult with legislative staff and with stakeholders to develop a reporting format consistent with the Legislature's desired level of outcome and expenditure reporting detail.

SEC. 69. Section 10553.1 of the Welfare and Institutions Code is amended to read:

10553.1. (a) Notwithstanding any other provision of law, the director may enter into an agreement, in accordance with Section 1919 of Title 25 of the United States Code, and consistent with Section 16000.6, with any California Indian tribe or any out-of-state Indian tribe that has reservation lands that extend into this state, consortium of tribes, or tribal organization, regarding the care and custody of Indian children and jurisdiction over Indian child custody proceedings, including, but not limited to, agreements that provide for orderly transfer of jurisdiction on a case-by-case basis, for exclusive tribal or state jurisdiction, or for concurrent jurisdiction between the state and tribes.

(b) (1) An agreement under subdivision (a) regarding the care and custody of Indian children shall provide for the delegation to the tribe, consortium of tribes, or tribal organization, of the responsibility that would otherwise be the responsibility of the county for the provision of child welfare services or assistance payments under the AFDC-FC program, or both.

(2) An agreement under subdivision (a) concerning the provision of child welfare services shall ensure that a tribe, consortium of tribes, or tribal organization, meets current service delivery standards provided for under Chapter 5 (commencing with Section 16500) of Part 4, and provides the ~~local~~ *tribal* matching share of costs required by Section ~~10101~~ *10553.11*.

(3) An agreement under subdivision (a) concerning assistance payments under the AFDC-FC program shall ensure that a tribe, consortium of tribes, or tribal organization, meets current foster care standards provided for under Article 5 (commencing with Section 11400) of Chapter 2 of Part 3, and provides the ~~local~~ *tribal* matching share of costs required by Section ~~15200~~ *10553.11*.

(4) An agreement under subdivision (a) concerning adoption assistance shall ensure that a tribe, consortium of tribes, or tribal organization, meets the current service delivery standards provided for under Chapter 2.1 (commencing with Section 16115), and provides the ~~local~~ *tribal* matching share of costs, as required by Section ~~15200~~ *10553.11*.

(c) Upon the implementation date of an agreement authorized by subdivision (b), the county that would otherwise be responsible for providing the child welfare services or AFDC-FC payments specified in the agreement as being provided by the tribe, consortium of tribes, or tribal organization, shall no longer be subject to that responsibility to children served under the agreement.

(d) Upon the effective date of an agreement authorized by subdivision (b), the tribe, consortium of tribes, or tribal organization, shall comply with fiscal reporting requirements specified by the department for federal and state reimbursement child welfare or AFDC-FC services for programs operated under the agreement.

(e) An Indian tribe, consortium of tribes, or tribal organization, that is a party to an agreement under subdivision (a), shall, in

accordance with the agreement, be eligible to receive allocations of child welfare services funds ~~pursuant to Section 10102~~.

(f) Implementation of an agreement under subdivision (a) may not be construed to impose liability upon, or to require indemnification by, the participating county or the State of California for any act or omission performed by an officer, agent, or employee of the participating tribe, consortium of tribes, or tribal organization, pursuant to this section.

SEC. 70. Section 10553.11 is added to the Welfare and Institutions Code, to read:

10553.11. (a) Effective July 1, 2011, notwithstanding any other provision of law or regulation, a tribe, consortium of tribes, or a tribal organization that is operating a program pursuant to an agreement with the department under Section 10553.1, shall be responsible for the following share of costs:

(1) For the adequate care of each child receiving AFDC-FC as identified in subdivision (d) of Section 11450, the tribal share shall be 60 percent of the nonfederal share. For nonfederally eligible costs, the tribal share shall be 60 percent of the costs.

(2) For administrative costs of administering the AFDC-FC program, the tribal share shall be 30 percent of the nonfederal share. For nonfederally eligible administrative costs, the tribal share shall be 30 percent of the costs.

(3) For the provision of child welfare services pursuant to Section 10101, the tribal share shall be 30 percent of the nonfederal share. For nonfederally eligible costs, the tribal share shall be 30 percent of the costs.

(4) For the provision of Title XIX child welfare services, the tribal share shall be 30 percent of the nonfederal costs. For services delivered by skilled professional medical personnel, reimbursement may be claimed under Title XIX at an enhanced rate and the tribal share shall be 30 percent of the nonfederal share.

(5) For wraparound services approved by the department for children described in Section 18250, the tribal share shall be 60 percent of the costs.

(6) For the support and care of hard-to-place adoptive children, the tribal share shall be 25 percent of the nonfederal share of the amount specified in Section 16121. For nonfederally eligible children, the tribal share shall be 25 percent of the costs.

(7) For monthly visitation of children placed in group homes, there shall be no tribal share.

(8) For the support and care of former dependent children who have been made wards of related guardians, the tribal share shall be 21 percent of the nonfederal share. For nonfederally eligible children, the tribal share shall be 21 percent of the costs. There shall be no tribal share for federally eligible administrative costs. For nonfederally eligible administrative costs, the tribal share shall be 50 percent.

(9) For the cost of extending aid pursuant to Section 11403 to eligible nonminor dependents who have reached 18 years of age and who are under the jurisdiction of the tribal program, the tribal share shall be 21 percent of the nonfederal share.

(b) Notwithstanding any other law or regulation, for programs, services, or administrative costs provided pursuant to Section 10553.1, but for which the sharing ratios are not specified in this section, the tribal share of costs shall be equal to the county statutory share of costs as set forth in statutory sharing ratios for each of these programs as in effect on June 30, 2011.

(c) Notwithstanding any other law, for the purposes of this section, the nonfederal costs for programs, services, or administrative costs provided pursuant to Section 10553.1 shall be borne by the tribe, consortium of tribes, or tribal organization, and the state. However, in the event that an Indian child is transferred from the tribal program to the jurisdiction of the county, the costs for the child shall be borne by the county as for any other child under the county's jurisdiction.

SEC. 71. Section 10601.2 of the Welfare and Institutions Code is amended to read:

10601.2. (a) The State Department of Social Services shall establish, by April 1, 2003, the California Child and Family Service Review System, in order to review all county child welfare systems. These reviews shall cover child protective services, foster care, adoption, family preservation, family support, and independent living.

(b) Child and family service reviews shall maximize compliance with the federal regulations for the receipt of money from Subtitle E (commencing with Section 470) of Title IV of the federal Social Security Act (42 U.S.C. Sec. 670 and following) and ensure compliance with state plan requirements set forth in Subtitle B

(commencing with Section 421) of Title IV of the federal Social Security Act (42 U.S.C. Sec. 621 and following).

(c) (1) ~~By October 1, 2002, the~~ *The* California Health and Human Services Agency shall convene a workgroup comprised of representatives of the Judicial Council, the State Department of Social Services, the State Department of Health *Care* Services, ~~the State Department of Mental Health,~~ the State Department of Education, ~~the Department of Child Support Services,~~ the State Department of Justice, any other state departments or agencies the California Health and Human Services Agency deems necessary, the County Welfare Directors Association, the California State Association of Counties, the Chief Probation Officers of California, the California Youth Connection, and representatives of California tribes, interested child advocacy organizations, researchers, and foster parent organizations. The workgroup shall establish a workplan by which child and family service reviews shall be conducted pursuant to this section, including a process for qualitative peer reviews of case information.

(2) At a minimum, in establishing the workplan, the workgroup shall consider any existing federal program improvement plans entered into by the state pursuant to federal regulations, the outcome indicators to be measured, compliance thresholds for each indicator, timelines for implementation, county review cycles, uniform processes, procedures and review instruments to be used, a corrective action process, and any funding or staffing increases needed to implement the requirements of this section. The agency shall broadly consider collaboration with all entities to allow the adequate exchange of information and coordination of efforts to improve outcomes for foster youth and families.

(d) (1) The California Child and Family Service Review System outcome indicators shall be consistent with the federal child and family service review measures and standards for child and family outcomes and system factors authorized by Subtitle B (commencing with Section 421) and Subtitle E (commencing with Section 470) of Title IV of the federal Social Security Act and the regulations adopted pursuant to those provisions (Parts 1355 to 1357, inclusive, of Title 45 of the Code of Federal Regulations).

(2) During the first review cycle pursuant to this section, each county shall be reviewed according to the outcome indicators

established for the California Child and Family Service Review System.

(3) For subsequent reviews, the workgroup shall consider whether to establish additional outcome indicators that support the federal outcomes and any program improvement plan, and promote good health, mental health, behavioral, educational, and other relevant outcomes for children and families in California's child welfare services system.

(4) The workgroup shall convene as necessary to update the outcome indicators described in paragraph (1).

(e) The State Department of Social Services shall identify and promote the replication of best practices in child welfare service delivery to achieve the measurable outcomes established pursuant to subdivision (d).

(f) The State Department of Social Services shall provide information to the Assembly and Senate Budget Committees and appropriate legislative policy committees annually, beginning with the 2002–03 fiscal year, on all of the following:

(1) The department's progress in planning for the federal child and family service review to be conducted by the United States Department of Health and Human Services and, upon completion of the federal review, the findings of that review, the state's response to the findings, and the details of any program improvement plan entered into by the state.

(2) The department's progress in implementing the California child and family service reviews, including, but not limited to, the timelines for implementation, the process to be used, and any funding or staffing increases needed at the state or local level to implement the requirements of this section.

(3) The findings and recommendations for child welfare system improvements identified in county self-assessments and county system improvement plans, including information on common statutory, regulatory, or fiscal barriers identified as inhibiting system improvements, any recommendations to overcome those barriers, and, as applicable, information regarding the allocation and use of the moneys provided to counties pursuant to subdivision (i).

(g) Effective April 1, 2003, the existing county compliance review system shall be suspended to provide to the State Department of Social Services sufficient lead time to provide

training and technical assistance to counties for the preparation necessary to transition to the new child and family service review system.

(h) Beginning January 1, 2004, the department shall commence individual child and family service reviews of California counties. County child welfare systems that do not meet the established compliance thresholds for the outcome measures that are reviewed shall receive technical assistance from teams made up of state and peer-county administrators to assist with implementing best practices to improve their performance and make progress toward meeting established levels of compliance.

(i) (1) To the extent that funds are appropriated in the annual Budget Act to enable counties to implement approaches to improving their performance on the outcome indicators under this section, the department, in consultation with counties, shall establish a process for allocating the funds to counties.

(2) The allocation process shall take into account, at a minimum, the extent to which the proposed funding would be used for activities that are reasonably expected to help the county make progress toward the outcome indicators established pursuant to this section, and the extent to which county funding for the Child Abuse, Prevention and Treatment program is aligned with the outcome indicators.

(3) To the extent possible, a county shall use funds ~~allocated pursuant to this subdivision~~ in a manner that enables the county to access additional federal, state, and local funds from other available sources. However, a county's ability to receive additional matching funds from these sources shall not be a determining factor in the allocation process established pursuant to this subdivision.

(4) The department shall provide information to the appropriate committees of the Legislature on the process established pursuant to this subdivision for allocating funds to counties.

(j) (1) Counties shall continue to be responsible for and accountable to the department for child welfare program performance measures, including all of the following:

(A) The outcome and systemic factor measures contained in the federal Department of Health and Human Services Child and Family Services Review Procedures Manual, Appendix B, Index of Outcomes and Systemic Factors, and Associated Items and Data

Indicators, issued pursuant to Sections 1355.34(b) and 1355.34(c) of Title 45 of the Code of Federal Regulations.

(B) Information and other requirements necessary for the California Child and Family Service Review System, as required pursuant to this section.

(C) Monthly caseworker visits with a child in care.

(D) Timeliness to begin an investigation of allegations of child abuse or neglect.

(E) 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), other performance measures resulting from new federal mandates or court decrees as specified in an all-county letter issued by the department.

(2) The department shall monitor, on an ongoing basis, county performance on the measures specified in paragraph (1).

(3) At least once every five years, the department shall conduct a comprehensive review of county performance on the measures specified in paragraph (1).

(4) (A) The department shall periodically update the process guides utilized by counties to prepare the self assessments and system improvement plans to promote implementation and evaluation of promising practices and use of data.

(B) The process guides also shall include, but not be limited to, both of the following:

(i) County evaluation of demographics for the children and families served and effectiveness of the system improvement activities for these populations.

(ii) A description of the process by which the department and counties shall develop mutually agreed upon performance targets for improvement.

(5) The department, in consultation with counties, shall develop a process for resolving any disputes regarding the establishment of appropriate targets pursuant to the process provided in paragraph (4).

(6) A county shall submit an update to the department, no less than annually, on its progress in achieving improvements from the county's baseline for the applicable measure. The department may require a county that has not met its performance targets to submit

and implement a corrective action plan, as determined by the director.

(k) Beginning in the 2011–12 fiscal year, and for each fiscal year thereafter, funding and expenditures for programs and activities required under this section shall be in accordance with the requirements provided in Sections 30025 and 30026.5 of the Government Code.

SEC. 72. Section 10605 of the Welfare and Institutions Code is amended to read:

10605. *(a)* If the director believes that a county is substantially failing to comply with any provision of this code or any regulation pertaining to any program administered by the department, and the director determines that formal action may be necessary to secure compliance, he or she shall inform the county welfare director and the board of supervisors of that failure. The notice to the county welfare director and board of supervisors shall be in writing and shall allow the county a specified period of time, not less than 30 days, to correct its failure to comply with the law or regulations. If within the specified period the county does not comply or provide reasonable assurances in writing that it will comply within the additional time as the director may allow, the director may take one or both of the following actions:

~~(a)~~

(1) Bring an action for injunctive relief to secure immediate compliance.

Any county ~~which~~ *that* is found to be failing ~~in a substantial manner~~ to *substantially* comply with the law or regulations pertaining to any program administered by the department may be enjoined by any court of competent jurisdiction. The court may make orders or judgments as may be necessary to secure county compliance.

~~(b)~~

(2) Order the county to appear at a hearing before the director ~~with the State Social Services Advisory Board Committee on Welfare and Social Services~~ to show cause why the director should not take administrative action to secure compliance. The county ~~hearings shall be conducted pursuant to the rules and regulations of the department~~ *shall be given at least 30 days' notice of the hearing. The director shall consider the case on the record established at the hearing and, within 30 days, shall render*

proposed findings and a proposed decision on the issues. The proposed findings and decisions shall be submitted to the county, and the county shall have the opportunity to appear within 10 days, at a time and place as may be determined by the director, for the purpose of presenting oral arguments respecting the proposed findings and decisions. Thereupon, the director shall make final findings and issue a final administrative decision.

~~If~~

(b) If the director determines, based on the record established at the hearing ~~and the advice of the State Social Services Advisory Board Committee on Welfare and Social Services~~ *pursuant to paragraph (2) of subdivision (a)*, that the county is failing to comply with ~~the provisions of this code or the regulations of~~ *laws or regulations pertaining to any program administered by* the department, or if the State Personnel Board certifies to the director that a county is not in conformity with established merit system standards under Part 2.5 (commencing with Section 19800) of Division 5 of Title 2 of the Government Code, and that administrative sanctions are necessary to secure compliance, the director may invoke either of the following sanctions*, except that the sanctions shall not be invoked concurrently*:

(1) ~~Withhold~~ *Except for child welfare services programs, withhold* all or part of state and federal funds from the county until the county demonstrates to the director that it has complied.

(2) *(A)* Assume, temporarily, direct responsibility for the administration of all or part of any or all programs administered by the department in the county until the time as the county provides reasonable *written* assurances to the director of its intention and ability to comply. During the period of direct state administrative responsibility, the director or his or her authorized representative shall have all of the powers and responsibilities of the county director, except that he or she shall not be subject to the authority of the board of supervisors.

~~In~~

(B) (i) In the event that the director invokes sanctions pursuant to this section, the county shall be responsible for providing any funds as may be necessary for the continued operation of all programs administered by the department in the county. If a county fails or refuses to provide these funds, including a sufficient amount to reimburse any and all costs incurred by the department in

directly administering any program in the county, the Controller may deduct an amount certified by the director as necessary for the continued operation of these programs by the department from any state or federal funds payable to the county for any purpose.

~~Nothing in this section shall be construed as preventing a county from seeking judicial review under Section 1094.5 of the Code of Civil Procedure of any final decision of the director made after a hearing conducted under this section. This review shall be the exclusive remedy available to the county for review of the director's decision.~~

~~Nothing in this section shall be construed as preventing the director from bringing an action for writ of mandamus or any other action in court as may be appropriate to insure that there is no interruption in the provision of benefits to any person eligible therefor under the provisions of this code or the regulations of the department.~~

(ii) In the event of a state-imposed sanction, the amount of the sanction shall be no greater than the amount of county funds that the county would be required to contribute to fully match the state General Fund allocation for the particular program or programs for which the county is being sanctioned for those programs that are not Public Safety Programs realigned pursuant to 2011 realignment legislation.

(iii) In the event of a state-imposed sanction pursuant to this paragraph for the Public Safety Programs realigned pursuant to 2011 realignment legislation that are administered by the Department of Social Services, the amount of the sanction shall be no greater than the amount of funding originally provided to the county in the 2011–12 fiscal year for the particular program from the Protective Services Subaccount within the Support Services Account of the Local Revenue Fund 2011, as adjusted by the county's share of the additional incremental funding provided pursuant to paragraph (2) of subdivision (f) of Section 30027.5 of, paragraph (2) of subdivision (f) of Section 30027.6 of, paragraph (2) of subdivision (f) of Section 30027.7 of, and paragraph (2) of subdivision (f) of Section 30027.8 of, the Government Code, the estimated growth funding for the program from the Support Services Growth Subaccount within the Sales and Use Tax Growth Account, and any adjustment to the county

allocation pursuant to subdivisions (a) and (b) of Section 30029.5 of the Government Code.

(c) (1) The department is authorized to conduct or have conducted audits and reviews in order to meet its obligations for child welfare programs and to ensure the protection of children and families.

(2) Except for cases in which there is a risk of immediate harm to a minor, the department shall provide the county with at least 30-calendar days' notice of the department's intent to perform an audit or review. This notice shall include the intended purpose, scope, and timing of the audit or review.

(3) The county shall have an opportunity to respond to the audit or review and may request an extension of up to 30 calendar days, that shall be granted by the director if there is good cause and unless there is a risk of immediate harm to a minor. The request for extension shall be submitted to the department within 10 business days of receipt of the audit or review notice. The department, in consultation with the California State Association of Counties, shall develop a definition of good cause for the purposes of this section.

(4) Nothing in the notice required by paragraph (2) shall be construed to limit the authority of the department under federal or state law to examine other information or records should that become prudent or necessary during the course of the audit or review.

(5) The county shall be presented with the audit or review findings at the conclusion of the audit or review. The county shall have 10 business days to provide a written response to the audit or review findings. The department shall have 10 business days thereafter to issue a final response to the county's written response. Both the county response and the department's written response shall be published as part of the audit or review and made final.

(6) The audit or review shall not result in a fiscal sanction to the county, as defined in subdivision (b).

(7) The department may impose a fiscal disallowance if there is a finding of misappropriation of funding, and the county shall be afforded due process as specified in subdivision (d).

(d) (1) If the audit or review specified in subdivision (c) results in a fiscal disallowance, the county may request a hearing within 30 calendar days of the notice of sanction or finalized audit or

review. The hearing request shall be in writing and shall be known as the Statement of Disputed Issues, which shall set forth the issues in dispute, and the county's contentions as to those issues, including any documentation to support the county's contentions. The hearing shall take place before a hearing officer designated by the director to examine any disputed audit or review finding.

(A) Following the hearing, the hearing officer shall submit the proposed final audit or review of the findings to the director. The director may take any of the following actions:

(i) Adopt the proposed findings with or without reading the record. The findings shall be final upon adoption by the director.

(ii) Reject the proposed findings and have findings prepared based upon the documentation presented at the hearing.

(iii) Refer the matter back to the hearing officer to receive additional information and prepare new findings.

(B) The final audit or review of the findings shall include the county's Statement of Disputed Issues, including its accompanying documentation. The final audit or review of the findings shall be subject to judicial review.

(e) Nothing in this section shall be construed as preventing the department from bringing an action for writ of mandamus or any other action in court as may be appropriate to ensure no interruption in the provision of benefits to any person eligible therefore under federal law, the provisions of this code or the regulations of the department.

(f) (1) Nothing in this section shall be construed as relieving the board of supervisors of the responsibility to provide funds necessary for the continued services required by law.

(2) Nothing contained in this section shall be construed as preventing a county from seeking judicial review of action taken by the director pursuant to this section under Section 1094.5 of the Code of Civil Procedure or, except in cases arising under Sections 10962 and 10963, from seeking injunctive relief when deemed appropriate.

SEC. 73. Section 10606.2 is added to the Welfare and Institutions Code, to read:

10606.2. (a) 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 may implement, interpret, or make specific

the amendments to this division made by the act that added this section by means of all-county letters or similar instructions from the department until regulations are adopted. The department shall adopt emergency regulations no later than July 1, 2014. The department may readopt any emergency regulation authorized by this section that is the same as or substantially equivalent to an emergency regulation previously adopted under this section.

(b) The initial adoption of emergency regulations pursuant to this section and one readoption of emergency regulations shall be deemed an emergency and necessary for the immediate preservation of the public peace, health, safety, or general welfare. Initial emergency regulations and the one readoption of emergency regulations authorized by this section shall be exempt from review by the Office of Administrative Law. The initial emergency regulations and the one readoption of emergency regulations authorized by this section shall be submitted to the Office of Administrative Law for filing with the Secretary of State and each shall remain in effect for no more than 180 days, by which time final regulations may be adopted.

(c) (1) Notwithstanding the rulemaking provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, for purposes of child welfare services programs and activities described in Divisions 2 and 9 of the Welfare and Institutions Code and in Division 13 of the Family Code, the department may, after consultation with counties and other appropriate stakeholders, make rule changes by means of all-county letters of similar instructions from the department pending enactment of state legislation only when necessary to conform to newly enacted federal law and only when both of the following conditions exist:

(A) The newly enacted federal law does not provide for delayed implementation pending state legislation, and existing state law either: (i) is inconsistent with the newly enacted federal law, or (ii) does not address the subject matter associated with the newly enacted federal law.

(B) The rule change is necessary to retain or maximize federal financial participation that is impacted by the newly enacted federal law.

(2) Any all-county letter or similar instruction issued by the department pursuant to this subdivision shall expire 15 months

after issuance by the department unless state legislation ratifying the rule changes has been enacted.

SEC. 74. Section 10609.3 of the Welfare and Institutions Code is amended to read:

10609.3. (a) By January 1, 1995, the State Department of Social Services shall complete, in consultation with county Independent Living Program administrators, placement agencies, providers, advocacy groups, and community groups, a comprehensive evaluation of the Independent Living Program established pursuant to the federal Consolidated Omnibus Budget Reconciliation Act of 1985 (Public Law 99-272) and develop recommendations available to the public on how independent living services could better prepare foster youth for independence and adulthood.

(b) The department shall investigate alternative transition housing models for youth between the ages of 17 and 18 who are in out-of-home placements under the supervision of the county department of social services or county probation department. To the extent federal funds are available and it is in the best interests of the children, the department shall develop and implement a transitional housing model for youth who are preparing for emancipation from foster care.

(c) The department shall also investigate alternative transition models for youth discharged from foster care to live on their own. As part of this investigation, the department shall consider the needs of youth for housing, transportation, health care, access to community resources, employment, and other support services.

(d) The department shall, with the approval of the federal government, amend the foster care state plan, provided for pursuant to Subtitle IV-E (commencing with Section 470) of the federal Social Security Act (42 U.S.C. Sec. 670, et seq.), and the child welfare services state plan (42 U.S.C. Sec. 622), to permit all eligible children be served by the Independent Living Program up to the age of 21 years.

(e) (1) ~~Effective July 1, 2000, the department, in consultation with the Independent Living Program Strategic Planning Committee,~~ *Counties* shall ~~develop and implement~~ *maintain* a stipend to supplement and not supplant the Independent Living Program. ~~To qualify for this stipend, a youth shall be otherwise eligible for the Independent Living Program, have been~~

~~emancipated from foster care to live on his or her own, and be approved by the county.~~ The stipend may provide for, but not be limited to, assisting ~~the~~ youth *who have exited the foster care system at or after 18 years of age* with the following independent living needs:

(A) Bus passes.

(B) Housing rental deposits and fees.

(C) Housing utility deposits and fees.

(D) Work-related equipment and supplies.

(E) Training-related equipment and supplies.

(F) Education-related equipment and supplies.

(2) Notwithstanding Section 10101, the state shall pay 100 percent of the nonfederal costs associated with the stipend program in paragraph (1), subject to the availability of funding provided in the annual Budget Act.

(3) Notwithstanding paragraph (2), 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.

SEC. 75. Section 10609.4 of the Welfare and Institutions Code is amended to read:

10609.4. (a) On or before July 1, 2000, the State Department of Social Services, in consultation with county and state representatives, foster youth, and advocates, shall do both of the following:

(1) Develop statewide standards for the implementation and administration of the Independent Living Program established pursuant to the federal Consolidated Omnibus Budget Reconciliation Act of 1985 (Public Law 99-272).

(2) Define the outcomes for the Independent Living Program and the characteristics of foster youth enrolled in the program for data collection purposes.

(b) ~~Each~~ *Consistent with federal law and reporting requirements, each* county department of social services shall *submit to the department an annual Independent Living Program report, which shall* include ~~in its annual Independent Living Program report both of~~ the following:

(1) An accounting of federal and state funds ~~allocated~~ *expended* for implementation of the program. *A county shall spend no more*

than 30 percent of federal Independent Living Program funds on housing. Expenditures shall be related to the specific purposes of the program. *It is the intent of the Legislature that the department, in consultation with counties, shall develop a process for reporting that satisfies federal law and reporting requirements.* Program purposes may include, but are not limited to, all of the following:

(A) Enabling participants to seek a high school diploma or its equivalent or to take part in appropriate vocational training, and providing job readiness training and placement services, or building work experience and marketable skills, or both.

(B) Providing training in daily living skills, budgeting, locating and maintaining housing, and career planning.

(C) Providing for individual and group counseling.

(D) Integrating and coordinating services otherwise available to participants.

(E) Providing each participant with a written transitional independent living plan that will be based on an assessment of his or her needs, that includes information provided by persons who have been identified by the participant as important to the participant in cases in which the participant has been in out-of-home placement for six months or longer from the date the participant entered foster care, consistent with the participant's best interests, and that will be incorporated into his or her case plan.

(F) Providing participants who are within 90 days of 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)), including those former foster care youth receiving Independent Living Program Aftercare Services, the opportunity to complete the exit transition plan as required by paragraph (16) of subdivision (f) of Section 16501.1.

(G) Providing participants with other services and assistance designed to improve independent living.

(H) Convening persons who have been identified by the participant as important to him or her for the purpose of providing information to be included in his or her written transitional independent living plan.

~~(2) A detail of the characteristics of foster youth enrolled in their independent living programs and the outcomes achieved~~

~~based on the information developed by the department pursuant to subdivision (a).~~

(2) Counties shall ensure timely and accurate data entry into the Child Welfare Services/Case Management System (CWS/CMS) for all youth receiving services pursuant to this section.

(3) Counties shall ensure that eligible foster care youth continue to receive information about, and are provided with an opportunity to complete, the National Youth in Transition Database (NYTD) survey, based on an updated process that shall be developed jointly by the department, in consultation with counties to ensure maximum participation in the survey completion and compliance with federal requirements, as follows:

(A) Counties shall provide information to the youth about the NYTD survey within 60 days prior to the date the current or former foster youth is required to be offered the survey.

(B) Within 45 days following the youth in foster care turning 17 years of age, counties shall ensure that each youth has an opportunity to complete the NYTD survey as required by federal law.

(C) Counties shall contact the youth who completed the survey at age 17, in order to request that they complete the followup survey before their 19th and 21st birthdays.

(D) Counties shall provide opportunities for current and former eligible foster youth to take the NYTD survey online at child welfare services and probation offices.

(c) The county department of social services in a county that provides transitional housing placement services pursuant to paragraph (2) of subdivision (a) of Section 11403.2 shall include in its annual Independent Living Program report a description of currently available transitional housing resources in relation to the number of emancipating pregnant or parenting foster youth in the county, and a plan for meeting any unmet transitional housing needs of the emancipating pregnant or parenting foster youth.

(d) In consultation with the department, a county may use different methods and strategies to achieve the standards and outcomes of the Independent Living Program developed pursuant to subdivision (a).

(e) In consultation with the County Welfare Directors Association, the California Youth Connection, and other stakeholders, the department shall develop and adopt emergency

regulations, no later than July 1, 2012, in accordance with Section 11346.1 of the Government Code that counties shall be required to meet when administering the Independent Living Program and that are achievable within existing program resources and any federal funds available for case management and case plan review functions for nonminor dependents, as provided for in the federal Fostering Connections to Success and Increasing Adoptions Act of 2008 (Public Law 110-351). The initial adoption of emergency regulations and one readoption of the initial regulations shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare. Initial emergency regulations and the first readoption of those regulations shall be exempt from review by the Office of Administrative Law. The initial emergency regulations and the first readoption of those regulations authorized by this subdivision shall be submitted to the Office of Administrative Law for filing with the Secretary of State and each shall remain in effect for no more than 180 days.

(f) The department, in consultation with representatives of the Legislature, the County Welfare Directors Association, the Chief Probation Officers of California, the Judicial Council, representatives of tribes, the California Youth Connection, former foster youth, child advocacy organizations, labor organizations, dependency counsel for children, juvenile justice advocacy organizations, foster caregiver organizations, and researchers, shall review and develop modifications needed to the Independent Living Program to also serve the needs of nonminor dependents, as defined in subdivision (v) of Section 11400, eligible for services pursuant to Section 11403. These modifications shall include the exit transition plan required to be completed within the 90-day period immediately prior to the date the nonminor participant attains the age that would qualify the participant for federal financial participation, as described in Section 11403, pursuant to Section 675(5)(H) of Title 42 of the United States Code. 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, through June 30, 2012, the department shall prepare for implementation of the applicable provisions of this section by publishing all-county letters or similar instructions from the director by October 1, 2011, to be effective January 1, 2012.

(g) Beginning in the 2011–12 fiscal year and for each fiscal year thereafter, funding and expenditures for programs and activities required under this section shall be in accordance with the requirements provided in Sections 30025 and 30026.5 of the Government Code.

SEC. 76. Section 10609.9 of the Welfare and Institutions Code is amended to read:

10609.9. (a) (1) ~~Commencing with the 2006 Budget Act, of the amounts appropriated in Program 25.30-Children and Adult Services and Licensing, in Items 5180-151-0001 and 5180-151-0890 of the annual Budget Act, ninety-eight million dollars ($98,000,000) is annually designated for needed outcome improvements identified in the county system improvement plans. These funds shall be allocated based on a methodology developed by the department, in consultation with the County Welfare Directors Association.~~ Funds ~~appropriated~~ *designated* for child welfare services outcome improvements shall be flexible and may be spent on local priorities identified in the county's system improvement plan, including, but not limited to, any of the following:

(A) Reducing high worker caseloads.

(B) Clerical or paraprofessional support.

(C) Direct services to clients, such as mental health or substance abuse treatment.

(D) Prevention and early intervention services, such as differential response.

(E) Permanency and youth transition practice improvements.

(F) Any other investments to better serve children and families, which may include services to support older youth in foster care, such as mentoring services.

~~(2) A county is not required to provide a match of the funds described in this subdivision if the county appropriates the required full match for the county's child welfare services program exclusive of the funds received pursuant to this subdivision.~~

~~(3)~~

(2) It is the intent of the Legislature that these funds be linked to improved outcomes, and provided to counties on an ongoing basis.

~~(b) By February 1, 2007, the department shall work with the County Welfare Directors Association, legislative staff, and~~

~~members of organizations that represent social workers, to develop and submit to the Legislature a proposed methodology for budgeting the child welfare services program to meet the program requirements and outcomes identified in Section 10601.2. It is the intent of the Legislature that this methodology be implemented in the Budget Act of 2007.~~

~~(c) In developing the new methodology, the department shall consider available research, including the study required by Section 10609.5, industry standards developed by recognized child welfare organizations and accrediting bodies, budgeting methodologies used in other states, as well as available research and information regarding budgeting methodologies in support of best practices and improved outcomes.~~

(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.

SEC. 77. Section 11214 of the Welfare and Institutions Code is repealed.

~~11214. (a) The department, with the advice and assistance of the counties, shall develop performance standards for the AFDC-FC program for submission to the Joint Legislative Budget Committee by January 1, 1981. The Joint Legislative Budget Committee shall review and comment on the performance standards by February 15, 1981. After considering the committee's comment and review, the department shall adopt performance standards by regulation no later than April 15, 1981. The performance standards shall be measurable objectives for the AFDC-FC program.~~

~~Any county which does not meet the performance standards shall be liable for up to the total amount of nonfederal expenditures for aid payments pursuant to subdivision (b) of Section 15200 as determined by the director.~~

~~(b) No county shall be reimbursed for any percentage increases in the payments to any group home which exceed the percentage cost-of-living increase provided in any fiscal year beginning on or after July 1, 1979, to persons eligible for aid under this chapter and who meet the conditions of this subdivision. This subdivision shall remain in effect until July 1, 1983.~~

SEC. 78. Section 11215 of the Welfare and Institutions Code is repealed.

~~11215. (a) The department, with the advice and assistance of the County Welfare Directors' Association, the Chief Probation Officers' Association, the California Conference of Local Mental Health Directors, and foster care providers, shall develop performance standards and outcome measures for determining the appropriateness of out-of-home care placements made under the AFDC-Foster Care program and for the effective and efficient administration of the AFDC-Foster Care program. These performance standards shall link county administration of the AFDC-Foster Care program to the state funding of the AFDC-Foster Care program as specified in subdivision (c) of Section 15200.~~

~~(b) (1) The performance standards required by this section shall be developed by July 1, 1993, and shall use the Child Welfare Services Case Management System as the database by which to collect county specific information. The performance standards shall be designed to measure each county's performance in all of the areas over which the county has some degree of influence and other areas of measurable program performance that the department can demonstrate as areas over which county welfare and probation departments have adequate resources and can demonstrate meaningful managerial or administrative influence. These areas may include accuracy of eligibility determination, stability of foster care placement, appropriateness of level of care provided, compliance with statutory timeliness, and compliance with data reporting requirements. The performance standards system shall include, but not be limited to, outcome measures reflective of county placing agencies' use of the Level of Care Assessment Instrument specified in Section 11467.~~

~~(2) The performance standards system shall be implemented in conjunction with the implementation of the Child Welfare Services Case Management System. If the Child Welfare Services Case Management System is not implemented by July 1, 1993, as specified in Section 16501.5, the implementation of the performance standards system, as specified in paragraphs (4) and (5), shall be moved to a date two years after the date of implementation of the Child Welfare Services Case Management System.~~

~~(3) Regulations regarding the implementation of the performance standards system shall be adopted no later than July 1, 1994. These regulations shall specify both the performance standards system and the manner by which the percentage of state reimbursement to each county for the AFDC-Foster Care program shall be determined.~~

~~(4) Effective July 1, 1995, any county that does not meet the performance standards shall be liable for a decrease in the percentage of state reimbursement for the AFDC-Foster Care program to the amounts specified in paragraph (2) of subdivision (c) of Section 15200. This amount will be determined by the department at the start of each fiscal year, beginning with fiscal year 1995–96, pursuant to regulations developed as specified in paragraph (4).~~

SEC. 79. 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) "Transitional housing placement facility" means either of the following:~~

~~(1) A community care facility licensed by the State Department of Social Services pursuant to Section 1559.110 of the Health and Safety Code to provide transitional housing opportunities to persons at least 16 years of age, and not more than 18 years of age and, on or after January 1, 2012, any nonminor dependent who has not attained 19 years of age, as described in paragraph (1) of subdivision (a) of Section 11403.2, may remain in the facility if it is in their best interests in order to complete high school or its equivalent, or to finish the high school year prior to their 19th birthday. These provisions shall apply to those who are in out-of-home placement under the supervision of the county department of social services or the county probation department, and who are participating in an independent living program.~~

~~(2) A facility certified to provide transitional housing services pursuant to subdivision (e) of Section 1559.110 of the Health and Safety Code.~~

~~(s) "Transitional housing placement program" means a program that provides supervised housing opportunities to eligible youth and nonminor dependents pursuant to Article 4 (commencing with Section 16522) of Chapter 5 of Part 4.~~

(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 ~~366.26 or 360~~ *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 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 or tribal agency, 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.

(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 ~~younger than 19 years of age as of~~ *not more than 19 years of age on or after* January 1, 2012, ~~younger than 20 years of age as of~~ *not more than 20 years of age on or after* January 1, 2013, or ~~younger than 21 years of age as of~~ *not more than 21 years of age on or after* January 1, 2014.

(2) He or she is in foster care under the placement and care responsibility of the county welfare department, county probation department, or Indian tribe 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 ~~setting"~~ *placement"* means, on and after January 1, 2012, ~~a~~ *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) "THP-Plus Foster Care" means, on and after January 1, 2012, a placement that offers supervised housing opportunities and supportive services to eligible nonminor dependents at least 18 years of age, on and after January 1, 2013, 19 years of age, and on and after January 1, 2014, 20 years of age, and not more than 21 years of age, who are in out-of-home placement under the placement and care responsibility of the county welfare department or the county probation department or Indian tribe that entered into an agreement pursuant to Section 10553.1, and who are described in paragraphs (3) and (4) of subdivision (a) of Section 11403.2.~~

(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 tribe 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 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 agency 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 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.

SEC. 80. Section 11402 of the Welfare and Institutions Code, as amended by Section 32 of Chapter 459 of the Statutes of 2011, is amended to read:

11402. In order to be eligible for AFDC-FC, a child or nonminor dependent shall be placed in one of the following:

(a) The approved home of a relative, provided the child is otherwise eligible for federal financial participation in the AFDC-FC payment.

(b) (1) The licensed family home of a nonrelative.

(2) The approved home of a nonrelative extended family member as described in Section 362.7.

(c) A licensed group home, as defined in subdivision (h) of Section 11400, provided that the placement worker has documented that the placement is necessary to meet the treatment needs of the child and that the facility offers those treatment services.

(d) The home of a nonrelated legal guardian or the home of a former nonrelated legal guardian when the guardianship of a child who is otherwise eligible for AFDC-FC has been dismissed due to the child's attaining 18 years of age.

(e) An exclusive-use home.

(f) A *housing model certified by a* licensed transitional housing placement ~~facility~~ *provider*, as described in Section 1559.110 of the Health and Safety Code, and as defined in subdivision (r) of Section 11400~~, or a transitional housing placement program, as defined in subdivision (s) of Section 11400~~.

(g) An out-of-state group home, provided that the placement worker, in addition to complying with all other statutory requirements for placing a minor in an out-of-state group home, documents that the requirements of Section 7911.1 of the Family Code have been met.

(h) A licensed crisis nursery, as described in Section 1516 of the Health and Safety Code, and as defined in subdivision (a) of Section 11400.1.

(i) A supervised independent living setting for nonminor dependents, as defined in *subdivision (x) of* Section 11400.

~~(j) An approved THP-Plus Foster Care placement for nonminor dependents, as defined in subdivision (x) of Section 11400.~~

~~(k)~~

(j) This section shall remain in effect only until July 1, 2012, and as of that date is repealed, unless a later enacted statute, that is enacted before July 1, 2012, deletes or extends that date.

SEC. 81. Section 11402 of the Welfare and Institutions Code, as amended by Section 33 of Chapter 459 of the Statutes of 2011, is amended to read:

11402. In order to be eligible for AFDC-FC, a child or nonminor dependent shall be placed in one of the following:

(a) The approved home of a relative, provided the child is otherwise eligible for federal financial participation in the AFDC-FC payment.

(b) (1) The licensed family home of a nonrelative.

(2) The approved home of a nonrelative extended family member as described in Section 362.7.

(c) A licensed group home, as defined in subdivision (h) of Section 11400, provided that the placement worker has documented that the placement is necessary to meet the treatment needs of the child and that the facility offers those treatment services.

(d) The home of a nonrelated legal guardian or the home of a former nonrelated legal guardian when the guardianship of a child who is otherwise eligible for AFDC-FC has been dismissed due to the child's attaining 18 years of age.

(e) An exclusive-use home.

(f) A *housing model certified by a* licensed transitional housing placement ~~facility~~ *provider* as described in Section 1559.110 of the Health and Safety Code and as defined in subdivision (r) of Section 11400~~, or a transitional housing placement program, as defined in subdivision (s) of Section 11400~~.

(g) An out-of-state group home, provided that the placement worker, in addition to complying with all other statutory requirements for placing a minor in an out-of-state group home, documents that the requirements of Section 7911.1 of the Family Code have been met.

(h) ~~A~~ *An approved* supervised independent living setting for nonminor dependents, as defined in *subdivision (w) of* Section 11400.

~~(i) An approved THP-Plus Foster Care placement for nonminor dependents, as defined in subdivision (x) of Section 11400.~~

~~(j)~~

(i) This section shall become operative on July 1, 2012.

SEC. 82. Section 11402.6 of the Welfare and Institutions Code is amended to read:

11402.6. (a) The federal government has provided the state with the option of including in its state plan children placed in a private facility operated on a for-profit basis.

(b) For children for whom the county placing agency has exhausted all other placement options, notwithstanding subdivision (h) of Section 11400 and subject to Section 15200.5, a child who is otherwise eligible for federal financial participation in the AFDC-FC payment shall be eligible for aid under this chapter when the child is placed in a for-profit child care institution and

meets all of the following criteria, which shall be clearly documented in the county welfare department case file:

(1) The child has extraordinary and unusual special behavioral or medical needs that make the child difficult to place, including, but not limited to, being medically fragile, brittle diabetic, having severe head injuries, a dual diagnosis of mental illness and substance abuse or a dual diagnosis of developmental delay and mental illness.

(2) No other comparable private nonprofit facility or public licensed residential care home exists in the state that is willing to accept placement and is capable of meeting the child's extraordinary special needs.

(3) The county placing agency has demonstrated that no other alternate placement option exists for the child.

(4) The child has a developmental disability and is eligible for both federal AFDC-FC payments and for regional center services.

(c) Federal financial participation shall be provided pursuant to Section 11402 for children described in subdivision (a) subject to all of the following conditions, which shall be clearly documented in the county welfare department case file.

(1) The county placing agency enters into a performance-based placement agreement with the for-profit facility to ensure the facility is providing services to improve the safety, permanency, and well-being outcomes of the placed children pursuant to Section 10601.2.

(2) The county placing agency will require the facility to ensure placement in the child's community to the degree possible to enhance ongoing connections with the child's family and to promote the establishment of lifelong connections with committed adults.

(3) The county placing agency monitors and reviews the facility's outcome performance indicators every six months.

(4) In no event shall federal financial participation in this placement exceed a 12-month period.

(5) Payments made under this section shall not be made on behalf of any more than five children in a county at any one time.

(6) Payments made under this section shall be made pursuant to Sections 4684 and 11464, and only to a group home that is an approved vendor of a regional center.

(d) This section shall be implemented only during a federal fiscal year in which the department determines that no restriction on federal matching AFDC-FC payment exists.

(e) As used in this section, "child care institution" means a nondetention facility that has been licensed in accordance with the California Community Care Facilities Act (Chapter 3 (commencing with Section 1500) of Division 2 of the Health and Safety Code), and that has a licensed capacity not exceeding 25 children.

(f) The county placing agency shall review and report to the juvenile court at every six-month case plan update if this placement remains appropriate and necessary and what the plan is for discharge to a less restrictive placement.

(g) Notwithstanding subdivision (d) or any other provision of law, this section shall not be implemented before July 1, 2010.

(h) 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.

SEC. 83. 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. 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 tribe 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 shall be eligible to continue to receive aid 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, 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 paragraph 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 or Indian tribe 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 tribe 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 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, and the placing worker, in addition to any other payee.

(d) A nonminor dependent may receive all of the payment directly provided that the nonminor is living independently in a supervised setting, 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 attains the age criteria, as set forth in subdivision (a), but aid may be suspended when the nonminor no longer resides in an eligible facility, as described in Section 11402, 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. Aid may be resumed at the request of the nonminor by completing a voluntary reentry agreement pursuant to subdivision (z) of Section 11400, followed by, or concurrently with, a petition filed pursuant to subdivision (e) of Section 388 or after a court terminates dependency jurisdiction pursuant to Section 391, or delinquency jurisdiction pursuant to Section 607.2. The county welfare or probation department or Indian tribe 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 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. The county welfare department, tribe, or county probation department 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 dependents receiving aid pursuant to 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 youth's transitional independent living case plan. Placements made out of

state are subject to the 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, tribe, or county probation department 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 ~~contribute to~~ *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, ~~CalWORKs payments pursuant to Section 11253,~~ 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, and aid pursuant to Section 11405 for nonminor dependents who are residing in the county as provided in paragraph (1) of subdivision ~~(f),~~ *(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 ~~for each of these programs~~ in effect on January 1, 2012.

(2) Subject to paragraph (3), a county shall ~~contribute to~~ *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 ~~at the statutory sharing ratio for these services in effect on January 1, 2012~~. 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). The department shall work with the County Welfare Directors Association to determine a methodology for calculating each county's costs and savings pursuant to this 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, 2012, 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) Notwithstanding any other provision of law, the extension of benefits to nonminor dependents between 20 and 21 years of age, as provided for in this section, shall be contingent upon an appropriation by the Legislature.~~

~~*(l)*~~

(k) This section shall become operative on January 1, 2012.

SEC. 84. Section 11403.1 of the Welfare and Institutions Code is amended to read:

11403.1. (a) (1) The Legislature finds and declares that former foster youth are a vulnerable population at risk of homelessness, unemployment, welfare dependency, incarceration, and other adverse outcomes if they exit the foster care system unprepared to become self-sufficient. Unlike many young individuals 18 years of age who can depend on family for ongoing support while they complete postsecondary education or develop career opportunities, emancipating foster youth have their primary source of support, AFDC-Foster Care payments, terminated at 18 years of age and are then dependent on their own resources for self-support. Some foster youth are not able to complete high school or other education or training programs due to ongoing trauma from the parental abuse or neglect and gaps in their educational attainment stemming from the original removal and subsequent changes in placement.

(2) Completion of an educational or training program is an essential, minimum skill needed by foster youth in order to be competitive in today's economy.

(3) It is therefore the intent of the Legislature to create, for counties that opt to participate, the Supportive Transitional Emancipation Program (STEP) in which emancipated foster youth ~~shall be eligible to~~ *may* receive support while participating in an educational or training program, or any activity consistent with their transitional independent living plan up to 21 years of age.

(b) ~~A~~ *Should a county elect to provide this program, a* person who meets all of the following conditions shall be *considered* eligible ~~to receive aid under this section~~ *for this program*:

(1) The person either was in foster care and emancipated upon reaching the age limitations specified in Section 11401 or received aid pursuant to Kin-GAP under Article 4.5 (commencing with Section 11360) and emancipated upon reaching the age limitations specified in Section 11363.

(2) The person is participating in an educational or training program, or any activity consistent with his or her transitional independent living plan.

(3) The person is under 21 years of age.

(4) The person has emancipated from a county that is participating in the STEP program.

(c) Aid under this section ~~shall~~ *may* be provided pursuant to a transitional independent living plan mutually agreed upon by the emancipated foster youth and the county welfare or probation department or independent living program coordinator~~, which shall be reviewed annually~~. The youth participating in STEP has the responsibility to inform the county of changes to the conditions in the agreed-upon plan that affect payment of aid, including changes in address, living circumstances, and the educational or training program.

(d) For purposes of this section, "emancipated foster youth" means a person who meets the eligibility criteria in subdivision (b).

(e) (1) In determining the amount of aid under this section, the rate provided to the youth shall be equivalent to the basic rate provided to a foster family home provider pursuant to Section 11461.

(2) If the emancipated youth remains in placement, payment shall be made to the care provider, including a ~~transitional housing placement program~~ *Transitional Housing Program-Plus provider*,

at a rate equivalent to the basic rate provided to a foster family home provider pursuant to Section 11461.

(f) Unless otherwise provided by federal law, receipt of aid under this section shall not be considered income either for purposes of eligibility for services provided in other federal or state programs, or for grants that may be provided by an institution of higher education, including, but not limited to, Cal Grants or other grants or fee waivers.

(g) (1) Aid under this section shall be provided to eligible youth who have emancipated from a county that elects to participate under this section.

(2) Each participating county welfare department shall notify all foster youth in that county, including those receiving Kin-GAP, ages 16 to 19 years, inclusive, of the existence of the program prescribed by this section.

(h) The department shall seek any federal funds available for implementation of this section, including, but not limited to, funds available under Title IV of the Social Security Act (42 U.S.C. Sec. 601 et seq.). Implementation of this section shall not, however, be contingent upon receipt of any federal funding. The department shall seek any waiver from the Secretary of the United States Department of Health and Human Services that is necessary to implement this section.

~~(i) Funding shall be subject to the sharing ratios specified in subdivision (c) of Section 15200.~~

~~(j) This section shall be implemented only to the extent funds are appropriated for that purpose in the annual Budget Act.~~

~~(k) This section shall be operative on January 1, 2002.~~

(i) 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.

SEC. 85. 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 ~~placement program services~~ provided pursuant to Article 4 (commencing with Section 16522) of Chapter 5 of Part 4:

(1) Any ~~minor~~ *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 who is less than 19 years of age,~~ *nonminor dependent, as defined in subdivision (v) of Section 11400,* who is eligible for AFDC-FC benefits ~~and whose best interests are met by remaining in the program as a nonminor dependent, in order to complete high school or its equivalent, or to finish the high school year prior to his or her 19th birthday, and who also meets the requirements in Section 16522.2~~ *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 ~~person less~~ *former foster youth at least 18 years of age and not more* than 24 years of age who has ~~emancipated from a county that has elected to participate in a transitional housing placement program for youths who are at least 18 years of age and under 24 years of age, as described in subdivision (r)~~ *exited from the foster care system at or after 18 years of age 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 placement program~~ *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 ~~emancipated~~ *former* foster youth and the *applicable* county welfare or probation department or independent living program coordinator. The ~~youth~~ *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.

~~(3) It is the intent of the Legislature to create a new placement option, known as THP-Plus-Foster Care. On and after January 1,~~

~~2012, THP-Plus-Foster Care, as described in subdivision (x) of Section 11400, is an eligible facility for purposes of AFDC-FC payments for placement of nonminor dependents, and shall offer the same housing models and supportive services as are available through the standard THP-Plus program available to emancipated foster youths pursuant to paragraph (2). In creating the new THP-Plus-Foster Care placement option, it is the intent of the Legislature to preserve the THP-Plus program, as it is described in subdivision (e) of Section 1559.110 of the Health and Safety Code, for former emancipated foster youth who have attained 21 years of age, but are under 24 years of age, and for former emancipated foster youth who have attained 18 years of age but are under 21 years of age, whose dependency or delinquency jurisdiction has been terminated by the court, and for whom reentry into foster care under subdivision (e) of Section 388 is not an appropriate or viable option.~~

~~(4) On and after January 1, 2012, any nonminor dependent at least 18 years of age, and on January 1, 2013, 19 years of age, and on January 1, 2014, 20 years of age, and not more than 21 years of age, as described in subdivision (v) of Section 11400, pursuant to subdivision (x) of Section 11400, and who is eligible pursuant to subdivision (b) of Section 11403.~~

(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 ~~program~~ *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 ~~program~~ *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 placement program~~ *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 ~~programs~~ *providers*.

~~(c) On and after January 1, 2012, with respect to nonminor dependents under 21 years of age, the approval standards for these legal adults placed in the THP-Plus-Foster Care shall be developed in accordance with Section 1502.7 of the Health and Safety Code. When developing regulations for the THP-Plus programs, the department shall consider the development of an application fee process for the programs, similar to the fee schedule as described in Section 1523.1 of the Health and Safety Code. An approved THP-Plus program shall certify facilities or sites to provide transitional housing services to nonminor dependents pursuant to subdivision (e) of Section 1559.110 of the Health and Safety Code.~~

~~(d) (1) For budgeting purposes, and to achieve the intent of the Legislature as described in paragraph (3) of subdivision (a), the department, in consultation with stakeholders and pursuant to subdivision (c) of Section 11403.3, shall direct counties that opt to participate in the THP-Plus in addition to the THP-Plus Foster Care to establish a goal of allocating 70 percent of the amount payable to placements of nonminor dependents under the THP-Plus-Foster Care program. The remaining 30 percent of the amount payable shall be available for THP-Plus placement for both those former emancipated foster youth who have attained 21 years of age, but are under 24 years of age, and for former emancipated foster youth who have attained 18 years of age but who are under 21 years of age, whose dependency or delinquency jurisdiction has been terminated by the court, and for whom reentry into foster care under subdivision (e) of Section 388 is not an appropriate or viable option. If a county can demonstrate that there is insufficient demand in either the THP-Plus or THP-Plus Foster Care program for the county to achieve the goal of allocating 70 percent of the combined allocation to THP-Plus Foster Care participants and 30 percent to THP-Plus participants for those counties who opt to participate in THP-Plus, the county may reallocate funds between THP-Plus and THP-Plus Foster Care in order to meet the existing demand within the county.~~

~~(2) Each county shall submit to the department a plan that sets forth how the county will provide for the THP-Plus-Foster Care~~

~~population, and, if opting for the THP-Plus, assurances that 30 percent of the placements will be set aside for the THP-Plus population. The county plan for each county that opts to participate in both THP-Plus and THP-Plus Foster Care shall also include a contingency for how both THP-Plus and THP-Plus Foster Care placements will be reallocated in the event that there is not sufficient demand in either the THP-Plus-Foster Care Program or the THP-Plus programs to fill the beds allocated for these populations.~~

~~(3) It is the intent of the Legislature that counties opting out of the THP-Plus program are to receive funding based on their operation of THP-Plus Foster Care only. The department shall develop a mechanism to implement this provision.~~

~~(4) Counties shall be allowed a reasonable period of time to achieve the goal described in paragraph (1). Counties shall not be required to suspend new admissions of eligible participants into the THP-Plus program for any period of time in order to reach the goal described in paragraph (1).~~

SEC. 86. Section 11403.25 of the Welfare and Institutions Code is repealed.

~~11403.25. (a) Before issuing a certificate of approval to a THP-Plus Foster Care provider applicant pursuant to subdivision (c) of Section 11403.2, county child welfare services agencies shall submit to the Department of Justice fingerprint images and related information required by the Department of Justice of all THP-Plus Foster Care providers, as described in Section 11403.2 for the purposes of obtaining information as to the existence and content of a record of state or federal convictions and state or federal arrests and also information as to the existence and content of a record of state or federal arrests for which the Department of Justice establishes that the person is free on bail or on his or her own recognizance pending trial or appeal.~~

~~(b) When received, the Department of Justice shall forward to the Federal Bureau of Investigation requests for federal summary criminal history information received pursuant to this section. The Department of Justice shall review the information returned from the Federal Bureau of Investigation and compile and disseminate a response to a county child welfare services agency.~~

~~(c) The Department of Justice shall provide a state and federal level response to a county child welfare services agency pursuant~~

~~to paragraph (1) of subdivision (m) of Section 11105 of the Penal Code.~~

~~(d) A county child welfare services agency shall request from the Department of Justice subsequent notification service, as provided pursuant to Section 11105.2 of the Penal Code, for persons described in subdivision (a).~~

~~(e) The Department of Justice shall charge a fee sufficient to cover the cost of processing the request described in this section.~~

~~(f) The county shall not issue an approval to a THP-Plus Foster Care provider applicant unless the applicant and any other persons as described in subdivision (b) of Section 1522 of the Health and Safety Code have obtained both California and Federal Bureau of Investigation criminal record clearances or exemptions from disqualification pursuant to Section 1522 of the Health and Safety Code and child abuse and neglect registry clearances as specified in Section 1522.1 of the Health and Safety Code as those provisions relate to foster care. Processing of the clearances and exemptions by the county shall be in accordance with Section 1522 of the Health and Safety Code as that section relates to foster care.~~

~~(g) The State Department of Social Services shall include the costs of these fees when determining the application and renewal fees described in Section 11403.2 that the county child welfare services agency may charge the THP-Plus Foster Care providers for the approval process.~~

~~(h) The county shall cause a check of all persons as described in subdivision (f) of the Child Abuse Central Index pursuant to paragraph (4) of subdivision (b) of Section 11170 of the Penal Code to be requested from the Department of Justice. The county shall check other states' child abuse and neglect registries to the extent required by federal law pursuant to Section 1522.1 of the Health and Safety Code.~~

~~(i) The county child welfare services agency may issue a criminal records exemption only if that county has been granted permission by the Director of Social Services to issue criminal records exemptions. The county may file a request with the Director of Social Services seeking an amendment to its exemption authority granted by the department pursuant to Section 361.4 to include the evaluation and granting of appropriate individual criminal records exemptions for persons described in subdivision~~

~~(a). The director shall grant or deny the county's request within 14 days of receipt.~~

SEC. 87. Section 11403.3 of the Welfare and Institutions Code is amended to read:

11403.3. (a) (1) Subject to subdivision (b), a transitional housing placement ~~program~~ *provider*, as defined in *subdivision (r) of* Section 11400, that provides transitional housing services to an eligible *foster* youth in a facility licensed pursuant to subdivision (a) of Section 1559.110 of the Health and Safety Code, shall be paid ~~a~~ *as follows:*

(A) For a program serving foster children who are at least 16 years of age and not more than 18 years of age, a monthly rate that is 75 percent of the average foster care expenditures for foster youth 16 to 18 years of age, inclusive, in group home care in the county in which the program operates.

(B) For a program serving nonminor dependents that is certified as a Transitional Housing Placement-Plus Foster Care program under paragraph (2) of subdivision (a) of Section 16522.1, the rate structure established pursuant to subdivision (b) of Section 11403.2.

(2) Subject to subdivision (c), a ~~transitional housing placement program~~ *Transitional Housing Program-Plus*, as defined in *subdivision (s) of* Section 11400, that provides transitional housing services to ~~an eligible youth in a facility certified pursuant to subdivision (e) of Section 1559.110 of the Health and Safety Code~~ *eligible former foster youth who have exited from the foster care system on or after their 18th birthday*, shall be paid a monthly rate that is 70 percent of the average foster care expenditures for foster youth 16 to 18 years of age, inclusive, in group home care in the county in which the program operates.

(b) Payment to a transitional housing placement ~~program~~ *provider* for transitional housing services provided to a person described in paragraph (1) of subdivision (a) of Section 11403.2 shall be subject to the following conditions:

(1) An amount equal to the base rate, as defined in subdivision (d), shall be paid for transitional housing services provided.

(2) Any additional amount payable pursuant to subdivision (a) shall be contingent on ~~both of~~ the ~~following:~~

~~(A) The availability of moneys in the Transitional Housing for Foster Youth Fund established in Section 11403.4, or appropriated~~

~~for this purpose in the annual Budget Act for the cost of the program, to pay the state share of cost of the additional amount.~~

~~(B) Election~~ *election* by the county placing the youth in the transitional housing placement program to participate in the costs of the additional amount, pursuant to subdivision (g).

(c) ~~(1)~~ Payment to a ~~transitional housing placement program~~ *Transitional Housing Program-Plus provider* for transitional housing services provided pursuant to paragraph (2) of subdivision (a) of Section 11403.2 shall be subject to the following conditions:

~~(A)~~

(1) Any Supportive Transitional Emancipation Program (STEP) payment payable pursuant to Section 11403.1 shall be paid for transitional housing services provided.

~~(B) Any~~

(2) Prior to fiscal year 2011–12, any amount payable pursuant to subdivision (a) to a ~~transitional housing placement program~~ *Transitional Housing Program-Plus provider* for services provided to a person described in paragraph (2) of subdivision (a) of Section 11403.2 shall be paid contingent on the availability of moneys appropriated for this purpose in the annual Budget Act for the cost of the program.

~~(2) The department may limit new participants into transitional housing placement programs if costs for this subdivision are projected to exceed moneys appropriated for this purpose in the annual Budget Act.~~

(d) (1) As used in this section, "base rate" means the rate a transitional housing placement ~~program~~ *provider or Transitional Housing Program-Plus provider* was approved to receive on June 30, 2001. If a program commences operation after this date, the base rate shall be the rate the program would have received if it had been operational on June 30, 2001.

(2) Notwithstanding subdivision (a), no transitional housing placement ~~program~~ *provider or Transitional Housing Program-Plus provider* with an approved rate on July 1, 2001, shall receive a lower rate than its base rate.

(e) Any reductions in payments to a transitional housing placement ~~program~~ *provider* pursuant to the implementation of paragraph (2) of subdivision (b) or ~~subparagraph (B) of paragraph (1)~~ *to a Transitional Housing Program-Plus provider pursuant to paragraph (2)* of subdivision (c) shall not preclude the program

from acquiring from other sources, additional funding necessary to provide program services.

(f) The department shall develop, implement, and maintain a ratesetting system schedule for transitional housing placement ~~programs~~ *providers, and Transitional Housing Program-Plus providers* pursuant to subdivisions (a) to (d), inclusive.

(g) (1) Funding for the rates payable under this section for persons described in paragraph (1) of subdivision (a) of Section 11403.2*, prior to the 2011–12 fiscal year,* shall be subject to a sharing ratio of 40 percent state and 60 percent county share of nonfederal funds.

(2) Funding for the rates payable under this section for persons described in paragraph (2) of subdivision (a) of Section 11403.2*, prior to the 2011–12 fiscal year,* shall be subject to a sharing ratio of 100 percent state and 0 percent county funds.

(3) Notwithstanding paragraph (2) of subdivision (c) and subdivision (g), 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.

SEC. 88. Section 11403.4 of the Welfare and Institutions Code is repealed.

~~11403.4. (a) The Transitional Housing for Foster Youth Fund is hereby created in the State Treasury for the purposes specified in this section.~~

~~(b) Except as otherwise limited by this section, the fund shall consist of all of the following:~~

~~(1) All public moneys transferred into the fund.~~

~~(2) Any interest that accrues on amounts in the fund.~~

~~(c) All moneys in the fund shall be used for the purpose of costs incurred pursuant to paragraph (2) of subdivision (b) or subparagraph (B) of paragraph (1) of subdivision (c) of Section 11403.3.~~

~~(d) Notwithstanding Section 13340 of the Government Code, moneys in the fund are continuously appropriated, without regard to fiscal years, for the purposes specified in subdivision (c).~~

SEC. 89. Section 11461 of the Welfare and Institutions Code is amended to read:

11461. (a) For children or, on and after January 1, 2012, nonminor dependents placed in a licensed or approved family home with a capacity of six or less, or in an approved home of a relative or nonrelated legal guardian, or the approved home of a nonrelative extended family member as described in Section 362.7, or, on and after January 1, 2012, a supervised independent living ~~setting~~ *placement*, as defined in subdivision (w) of Section 11400, the per child per month basic rates in the following schedule shall be in effect for the period July 1, 1989, through December 31, 1989:

Age	Basic rate
0–4	$ 294
5–8	319
9–11	340
12–14	378
15–20	412

(b) (1) Any county that, as of October 1, 1989, has in effect a basic rate that is at the levels set forth in the schedule in subdivision (a), shall continue to receive state participation, as specified in subdivision (c) of Section 15200, at these levels.

(2) Any county that, as of October 1, 1989, has in effect a basic rate that exceeds a level set forth in the schedule in subdivision (a), shall continue to receive the same level of state participation as it received on October 1, 1989.

(c) The amounts in the schedule of basic rates in subdivision (a) shall be adjusted as follows:

(1) Effective January 1, 1990, the amounts in the schedule of basic rates in subdivision (a) shall be increased by 12 percent.

(2) Effective May 1, 1990, any county that did not increase the basic rate by 12 percent on January 1, 1990, shall do both of the following:

(A) Increase the basic rate in effect December 31, 1989, for which state participation is received by 12 percent.

(B) Increase the basic rate, as adjusted pursuant to subparagraph (A), by an additional 5 percent.

(3) (A) Except as provided in subparagraph (B), effective July 1, 1990, for the 1990–91 fiscal year, the amounts in the schedule

of basic rates in subdivision (a) shall be increased by an additional 5 percent.

(B) The rate increase required by subparagraph (A) shall not be applied to rates increased May 1, 1990, pursuant to paragraph (2).

(4) Effective July 1, 1998, the amounts in the schedule of basic rates in subdivision (a) shall be increased by 6 percent. Notwithstanding any other provision of law, the 6-percent increase provided for in this paragraph shall, retroactive to July 1, 1998, apply to every county, including any county to which paragraph (2) of subdivision (b) applies, and shall apply to foster care for every age group.

(5) Notwithstanding any other provision of law, any increase that takes effect after July 1, 1998, shall apply to every county, including any county to which paragraph (2) of subdivision (b) applies, and shall apply to foster care for every age group.

(6) The increase in the basic foster family home rate shall apply only to children placed in a licensed foster family home receiving the basic rate or in an approved home of a relative or nonrelative extended family member, as described in Section 362.7, a supervised independent living ~~setting~~ *placement*, as defined in subdivision (w) of Section 11400, or a nonrelated legal guardian receiving the basic rate. The increased rate shall not be used to compute the monthly amount that may be paid to licensed foster family agencies for the placement of children in certified foster homes.

(d) (1) (A) Beginning with the 1991–92 fiscal year, the schedule of basic rates in subdivision (a) shall be adjusted by the percentage changes in the California Necessities Index, computed pursuant to the methodology described in Section 11453, subject to the availability of funds.

(B) In addition to the adjustment in subparagraph (A) effective January 1, 2000, the schedule of basic rates in subdivision (a) shall be increased by 2.36 percent rounded to the nearest dollar.

(C) Effective January 1, 2008, the schedule of basic rates in subdivision (a), as adjusted pursuant to subparagraph (B), shall be increased by 5 percent, rounded to the nearest dollar. The increased rate shall not be used to compute the monthly amount that may be paid to licensed foster family agencies for the placement of children in certified foster family homes, and shall not be used to recompute 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 any adoption assistance agreement entered into prior to October 1, 1992, or in any subsequent reassessment for adoption assistance agreements executed before January 1, 2008.

(2) (A) Any county that, as of the 1991–92 fiscal year, receives state participation for a basic rate that exceeds the amount set forth in the schedule of basic rates in subdivision (a) shall receive an increase each year in state participation for that basic rate of one-half of the percentage adjustments specified in paragraph (1) until the difference between the county's adjusted state participation level for its basic rate and the adjusted schedule of basic rates is eliminated.

(B) Notwithstanding subparagraph (A), all counties for the 1999–2000 fiscal year and the 2007–08 fiscal year shall receive an increase in state participation for the basic rate of the entire percentage adjustment described in paragraph (1).

(3) If a county has, after receiving the adjustments specified in paragraph (2), a state participation level for a basic rate that is below the amount set forth in the adjusted schedule of basic rates for that fiscal year, the state participation level for that rate shall be further increased to the amount specified in the adjusted schedule of basic rates.

(e) (1) As used in this section, "specialized care increment" means an approved *AFDC–FC* amount paid ~~with state participation~~ on behalf of an AFDC-FC child requiring specialized care to a home listed in subdivision (a) in addition to the basic rate. Notwithstanding subdivision (a), the specialized care increment shall not be paid to a nonminor dependent placed in a supervised independent living setting as defined in subdivision (w) of Section 11403. ~~On the effective date of this section, the department shall continue and maintain the current~~ *A county may have a* ratesetting system for specialized care *to pay for the additional care and supervision needed to address the behavioral, emotional, and physical requirements of foster children. A county may modify its specialized care rate system as needed, to accommodate changing specialized placement needs of children*.

~~(2) Any county that, as of the effective date of this section, has in effect specialized care increments that have been approved by~~

~~the department, shall continue to receive state participation for those payments.~~

~~(3) Any county that, as of the effective date of this section, has in effect specialized care increments that exceed the amounts that have been approved by the department, shall continue to receive the same level of state participation as it received on the effective date of this section.~~

(2) (A) The department shall have the authority to review the county's specialized care information, including the criteria and methodology used for compliance with state and federal law, and to require counties to make changes if necessary to conform to state and federal law.

(B) The department shall make available to the public each county's specialized care information, including the criteria and methodology used to determine the specialized care increments.

(3) Upon a request by a county for technical assistance, specialized care information shall be provided by the department within 90 days of the request to the department.

(4) (A) Except for subparagraph (B), beginning January 1, 1990, specialized care increments shall be adjusted in accordance with the methodology for the schedule of basic rates described in subdivisions (c) and (d). ~~No county shall receive state participation for any increases in a specialized care increment which exceeds the adjustments made in accordance with this methodology.~~

(B) Notwithstanding subdivision (e) of Section 11460, for the 1993–94 fiscal year, an amount equal to 5 percent of the State Treasury appropriation for family homes shall be added to the total augmentation for the AFDC-FC program in order to provide incentives and assistance to counties in the area of specialized care. This appropriation shall be used, but not limited to, encouraging counties to implement or expand specialized care payment systems, to recruit and train foster parents for the placement of children with specialized care needs, and to develop county systems to encourage the placement of children in family homes. It is the intent of the Legislature that in the use of these funds, federal financial participation shall be claimed whenever possible.

(C) (i) Notwithstanding subparagraph (A), the specialized care increment shall not receive a cost-of-living adjustment in the 2011–12 or 2012–13 fiscal years.

(ii) Notwithstanding clause (i), a county may choose to apply a cost-of-living adjustment to its specialized care increment during the 2011–12 or 2012–13 fiscal years. To the extent that a county chooses to apply a cost-of-living adjustment during that time, the state shall not participate in the costs of that adjustment.

(iii) To the extent that federal financial participation is available for a cost-of-living adjustment made by a county pursuant to clause (ii), it is the intent of the Legislature that the federal funding shall be utilized.

(5) Beginning in the 2011–12 fiscal year, and for each fiscal year thereafter, funding and expenditures for programs and activities under this subdivision shall be in accordance with the requirements provided in Sections 30025 and 30026.5 of the Government Code.

(f) (1) As used in this section, "clothing allowance" means the amount paid ~~with state participation~~ *by a county, at the county's option,* in addition to the basic rate for the provision of additional clothing for an AFDC-FC child, including, but not limited to, an initial supply of clothing and school or other uniforms. *The frequency and level of funding shall be based on the needs of the child, as determined by the county.*

~~(2) Any county that, as of the effective date of this section, has in effect clothing allowances, shall continue to receive the same level as it received on the effective date of this section.~~

~~(3) (A) Commencing in the 2007–08 fiscal year, for children whose foster care payment is the responsibility of Colusa, Plumas, and Tehama Counties, the amount of the clothing allowance may be up to two hundred seventy-four dollars ($274) per child per year.~~

~~(B) Each county listed in subparagraph (A) that elects to receive the clothing allowance shall submit a Clothing Allowance Program Notification to the department within 60 days after the effective date of the act that adds this paragraph.~~

~~(C) The Clothing Allowance Program Notification shall identify the specific amounts to be paid and the disbursement schedule for these clothing allowance payments.~~

~~(4) (A) Beginning January 1, 1990, except as provided in paragraph (5), clothing allowances shall be adjusted annually in accordance with the methodology for the schedule of basic rates described in subdivisions (c) and (d). No county shall be~~

~~reimbursed for any increases in clothing allowances which exceed the adjustments made in accordance with this methodology.~~

~~(B) (1) Notwithstanding subparagraph (A), the clothing allowance shall not receive any cost-of-living adjustment in the 2011–12 or 2012–13 fiscal years.~~

~~(2) Notwithstanding paragraph (1), a county may choose to apply a cost-of-living adjustment to its clothing allowance during the 2011–12 or 2012–13 fiscal years. To the extent that a county chooses to apply a cost-of-living adjustment during that time, the state shall not participate in the costs of that adjustment.~~

~~(3) To the extent that federal financial participation is available for a cost-of-living adjustment made by a county pursuant to paragraph (2), it is the intent of the Legislature that the federal funding shall be utilized.~~

~~(5) (A) For the 2000–01 fiscal year and each fiscal year thereafter, without a county share of cost, notwithstanding subdivision (c) of Section 15200, each child shall be entitled to receive a supplemental clothing allowance of one hundred dollars ($100) per year subject to the availability of funds. The clothing allowance shall be used to supplement, and not supplant, the clothing allowance specified in paragraph (1).~~

~~(B) Notwithstanding subparagraph (A), the~~

(2) The state shall no longer participate in ~~the supplemental~~ *any* clothing allowance *in addition to the basic rate,* commencing with the 2011–12 fiscal year.

(g) (1) Notwithstanding subdivisions (a) to (d), inclusive, for a child, or on and after January 1, 2012, a nonminor dependent, placed in a licensed or approved family home with a capacity of six or less, or placed in an approved home of a relative or the approved home of a nonrelative extended family member as described in Section 362.7, or placed on and after January 1, 2012, in a supervised independent living ~~setting~~ *placement*, as defined in subdivision (w) of Section 11400, the per child per month basic rate in the following schedule shall be in effect for the period commencing July 1, 2011, or the date specified in the final order, for which the time to appeal has passed, issued by a court of competent jurisdiction in California State Foster Parent Association v. William Lightbourne, et al. (U.S. Dist. Ct. C 07-08056 WHA), whichever is earlier, through June 30, 2012:

Age	Basic rate
0–4	$ 609
5–8	$ 660
9–11	$ 695
12–14	$ 727
15–20	$ 761

(2) Commencing July 1, 2011, the basic rate set forth in this subdivision shall be annually adjusted on July 1 by the annual percentage change in the California Necessities Index applicable to the calendar year within which each July 1 occurs.

(3) Subdivisions (e) and (f) shall apply to payments made pursuant to this subdivision.

(4) Beginning in the 2011–12 fiscal year, and each fiscal year thereafter, funding and expenditures for programs and activities under this subdivision shall be in accordance with the requirements provided in Sections 30025 and 30026.5 of the Government Code.

SEC. 90. Section 11461.2 is added to the Welfare and Institutions Code, to read:

11461.2. (a) It is the intent of the Legislature to ensure quality care for children who are placed in the continuum of AFDC-FC eligible placement settings.

(b) The State Department of Social Services shall establish, in consultation with county welfare departments and other stakeholders, as appropriate, a working group to develop recommended revisions to the current ratesetting system, services, and programs serving children and families in the continuum of AFDC-FC eligible placement settings including, at a minimum, all programs provided by foster family agencies and group homes including those providing residentially-based services, as defined in paragraph (1) of subdivision (a) of Section 18987.71.

(c) In developing the recommended revisions identified in subdivision (b), the working group shall consider all of the following:

(1) How ratesetting systems for foster care providers, including, at least, foster family agencies and group homes, can better support a continuum of programs and services that promote positive outcomes for children and families. This may include a process for matching the child's strengths and needs to the appropriate placement setting.

(2) How the provision of an integrated, comprehensive set of services including mental health and other critical services for children and youth support the achievement of well-being, permanency, and safety outcomes.

(3) How to ensure the provision of services in family-like settings including after care services, when appropriate.

(4) How to provide outcome-based evaluations of foster care providers or other methods of measuring quality improvement including measures of youth and families' satisfaction with services provided and program effectiveness.

(5) How changes in the licensing, ratesetting, and auditing processes can improve the quality of foster care providers, the quality of services and programs provided, and enhance the oversight of care provided to children, including, but not limited to, accreditation, administrator qualifications, and the reassignment of these responsibilities within the department.

(d) In addition to the considerations in subdivision (c), the workgroup recommendations shall be based on the review and evaluation of the current ratesetting systems, actual cost data, and information from the provider community as well as research on other applicable ratesetting methodologies, evidenced-based practices, information developed as a result of pilots approved by the director, and any other relevant information.

(e) The workgroup shall develop the content, format, and data sources for reports to be posted by the department on a public Internet Web site describing the outcomes achieved by providers with foster care rates set by the department.

(f) (1) Recommendations developed pursuant to this section shall include the plan required under subdivision (d) of Section 18987.7. Updates regarding the workgroup's establishment and its progress toward meeting the requirements of this section shall be provided to the Legislature during 2012–13 and 2013–14 budget hearings. The revisions recommended pursuant to the requirements of subdivision (b) shall be submitted in a report to the appropriate policy and fiscal committees of the Legislature by October 1, 2014.

(2) The requirement for submitting a report pursuant to this subdivision is inoperative on October 1, 2018, pursuant to Section 10231.5 of the Government Code.

(g) The department shall retain the authority to extend the workgroup after October 1, 2014, to ensure that the objectives of

this section are met and to reconvene this workgroup as necessary to address any future recommended changes to the continuum of AFDC-FC eligible placement settings pursuant to this section.

SEC. 91. Section 11462.05 of the Welfare and Institutions Code is repealed.

~~11462.05. By October 1, 1995, the department shall review and recommend to the appropriate policy and fiscal committees of the Legislature, a new or revised ratesetting system for facilities receiving reimbursement under Sections 11462 and 11462.01. The department shall conduct this review and develop recommendations with the advice and assistance of county placement agencies, group home provider associations, and other individuals and organizations as designated by the director. The recommendations shall be based on the department's review and evaluation of the current program classification system, group home actual cost data, and information from the group home program statements and level of care assessments specified in Section 11467.~~

SEC. 92. Section 11463 of the Welfare and Institutions Code is repealed.

~~11463. (a) (1) The department, with the advice, assistance, and cooperation of the counties and foster care providers, shall develop, implement, and maintain a ratesetting system for foster family agencies.~~

~~(2) No county shall be reimbursed for any percentage increases in payments, made on behalf of AFDC-FC funded children who are placed with foster family agencies, that exceed the percentage cost-of-living increase provided in any fiscal year beginning on January 1, 1990, as specified in subdivision (c) of Section 11461.~~

~~(b) The department shall develop regulations specifying the purposes, types, and services of foster family agencies, including the use of those agencies for the provision of emergency shelter care. A distinction, for ratesetting purposes, shall be drawn between foster family agencies that provide treatment of children in foster families and those that provide nontreatment services.~~

~~(c) The department shall develop and maintain regulations specifying the procedure for the appeal of department decisions about the setting of an agency's rate.~~

~~(d) On and after July 1, 1998, the schedule of rates, and the components used in the rate calculations specified in the department's regulations, for foster family agencies shall be~~

~~increased by 6 percent, rounded to the nearest dollar. The resultant amounts shall constitute the new schedule of rates for foster family agencies.~~

~~(e) (1) On and after July 1, 1999, the schedule of rates and the components used in the rate calculations specified in the department's regulations for foster family agencies shall be adjusted by an amount equal to the California Necessities Index computed pursuant to Section 11453, rounded to the nearest dollar, subject to the availability of funds. The resultant amounts shall constitute the new schedule of rates for foster family agencies, subject to further adjustment pursuant to paragraph (2).~~

~~(2) In addition to the adjustment specified in paragraph (1), commencing January 1, 2000, the schedule of rates and the components used in the rate calculations specified in the department's regulations for foster family agencies shall be increased by 2.36 percent, rounded to the nearest dollar. The resultant amounts shall constitute the new schedule of rates for foster family agencies.~~

~~(f) For the 1999–2000 fiscal year, foster family agency rates that are not determined by the schedule of rates set forth in the department's regulations, shall be increased by the same percentage as provided in subdivision (e).~~

~~(g) For the 2000–01 fiscal year and each fiscal year thereafter, without a county share of cost, notwithstanding subdivision (c) of Section 15200, the foster family agency rate shall be supplemented by one hundred dollars ($100) for clothing per year per child in care, subject to the availability of funds. The supplemental payment shall be used to supplement, and shall not be used to supplant, any clothing allowance paid in addition to the foster family agency rate.~~

~~(h) In addition to the adjustment made pursuant to subdivision (e), the component for social work activities in the rate calculation specified in the department's regulations for foster family agencies shall be increased by 10 percent, effective January 1, 2001. This additional funding shall be used by foster family agencies solely to supplement staffing, salaries, wages, and benefit levels of staff performing social work activities. The schedule of rates shall be recomputed using the adjusted amount for social work activities. The resultant amounts shall constitute the new schedule of rates for foster family agencies. The department may require a foster~~

~~family agency receiving this additional funding to certify that the funding was utilized in accordance with the provisions of this section.~~

~~(i) The increased rate provided by subparagraph (C) of paragraph (1) of subdivision (d) of Section 11461 shall not be used to compute the monthly amount that may be paid to licensed foster family agencies for the placement of children in certified foster homes.~~

~~(j) The total foster family agency rate by age group in effect as of January 1, 2008, paid to licensed foster family agencies for the placement of children in certified foster family homes, shall be reduced by 10 percent, effective October 1, 2009. The foster family agency shall have flexibility in applying the reduction, however, no more than 10 percent shall be deducted from the child base and increment, as defined in departmental regulations. When the rate is restored to at least the rate in effect on September 1, 2009, the director shall issue the declaration described in Section 1506.3 of the Health and Safety Code.~~

~~(k) Effective October 1, 2009, the total foster family agency rate by age group, in effect for those agency rates that are not determined by the schedule of rates set forth in the department's regulations, shall be reduced by the same percentage and in the same manner as provided for in subdivision (j).~~

~~(*l*) (1) The department shall determine, consistent with the requirements of this section and other relevant requirements under law, the rate category for each foster family agency on a biennial basis. Submission of the biennial rate application shall be according to a schedule determined by the department.~~

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

SEC. 93. Section 11463 is added to the Welfare and Institutions Code, to read:

11463. (a) (1) The department, with the advice, assistance, and cooperation of the counties and foster care providers, shall

develop, implement, and maintain a ratesetting system for foster family agencies.

(2) No county shall be reimbursed for any percentage increases in payments, made on behalf of AFDC-FC funded children who are placed with foster family agencies, that exceed the percentage cost-of-living increase provided in any fiscal year beginning on January 1, 1990, as specified in subdivision (c) of Section 11461.

(b) The department shall develop regulations specifying the purposes, types, and services of foster family agencies, including the use of those agencies for the provision of emergency shelter care. A distinction, for ratesetting purposes, shall be drawn between foster family agencies that provide treatment of children in foster families and those that provide nontreatment services.

(c) The department shall develop and maintain regulations specifying the procedure for the appeal of department decisions about the setting of an agency's rate.

(d) On and after July 1, 1998, the schedule of rates, and the components used in the rate calculations specified in the department's regulations, for foster family agencies shall be increased by 6 percent, rounded to the nearest dollar. The resultant amounts shall constitute the new schedule of rates for foster family agencies.

(e) (1) On and after July 1, 1999, the schedule of rates and the components used in the rate calculations specified in the department's regulations for foster family agencies shall be adjusted by an amount equal to the California Necessities Index computed pursuant to Section 11453, rounded to the nearest dollar, subject to the availability of funds. The resultant amounts shall constitute the new schedule of rates for foster family agencies, subject to further adjustment pursuant to paragraph (2).

(2) In addition to the adjustment specified in paragraph (1), commencing January 1, 2000, the schedule of rates and the components used in the rate calculations specified in the department's regulations for foster family agencies shall be increased by 2.36 percent, rounded to the nearest dollar. The resultant amounts shall constitute the new schedule of rates for foster family agencies.

(f) For the 1999–2000 fiscal year, foster family agency rates that are not determined by the schedule of rates set forth in the

department's regulations, shall be increased by the same percentage as provided in subdivision (e).

(g) (1) For the 2000–01 fiscal year and each fiscal year thereafter, the foster family agency rate shall be supplemented by one hundred dollars ($100) for clothing per year per child in care, subject to the availability of funds. The supplemental payment shall be used to supplement, and shall not be used to supplant, any clothing allowance paid in addition to the foster family agency rate.

(2) Notwithstanding paragraph (1), commencing with the 2012–13 fiscal year, and each fiscal year thereafter, no supplemental clothing allowance shall be provided, because the rate issued in accordance with paragraph (1) of subdivision (m) takes the cost of clothing into account.

(h) In addition to the adjustment made pursuant to subdivision (e), the component for social work activities in the rate calculation specified in the department's regulations for foster family agencies shall be increased by 10 percent, effective January 1, 2001. This additional funding shall be used by foster family agencies solely to supplement staffing, salaries, wages, and benefit levels of staff performing social work activities. The schedule of rates shall be recomputed using the adjusted amount for social work activities. The resultant amounts shall constitute the new schedule of rates for foster family agencies. The department may require a foster family agency receiving this additional funding to certify that the funding was utilized in accordance with the provisions of this section.

(i) The increased rate provided by subparagraph (C) of paragraph (1) of subdivision (d) of Section 11461 shall not be used to compute the monthly amount that may be paid to licensed foster family agencies for the placement of children in certified foster homes.

(j) The total foster family agency rate by age group in effect as of January 1, 2008, paid to licensed foster family agencies for the placement of children in certified foster family homes, shall be reduced by 10 percent, effective October 1, 2009. The foster family agency shall have flexibility in applying the reduction, however, nothing shall be deducted from the child base rate, as defined in departmental regulations. When the rate is restored to at least the rate in effect on September 1, 2009, the director shall issue the

declaration described in Section 1506.3 of the Health and Safety Code.

(k) Effective October 1, 2009, the total foster family agency rate by age group, in effect for those agency rates that are not determined by the schedule of rates set forth in the department's regulations, shall be reduced by the same percentage and in the same manner as provided for in subdivision (j).

(l) (1) The department shall determine, consistent with the requirements of this section and other relevant requirements under law, the rate category for each foster family agency on a biennial basis. Submission of the biennial rate application shall be according to a schedule determined by the department.

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

(m) (1) On and after July 1, 2012, the basic rate payment that shall be made to the certified parent pursuant to this section for care and supervision of a child who is living in a certified home of a foster family agency, as defined in Section 11400, shall equal the basic rate for children based in a licensed or approved home, as specified in paragraph (1) of subdivision (g) of Section 11461.

(2) The basic rate payment to the certified parent made pursuant to paragraph (1) shall be adjusted annually on July 1, by the annual percentage change in the California Necessities Index, in accordance with paragraph (2) of subdivision (g) of Section 11461. The adjustment in this paragraph shall be in lieu of any adjustment pursuant to subdivision (e).

(n) Notwithstanding any other law, the changes to the basic rate payment specified in subdivision (m) shall not change the remaining components of the foster family agency rate. The new foster family agency rate shall be increased only by the amounts specified pursuant to subdivision (m). The resulting amounts shall constitute the new schedule of rates for foster family agencies, which shall be issued by all-county letters or similar instructions from the department.

(o) 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.

(p) (1) 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 may implement, interpret, or make specific the changes to this section made by the act that added this section, and amend and repeal regulations and orders subject to this section and adopted by the department by means of all-county letters or similar instructions from the department until regulations are adopted. The department shall adopt emergency regulations no later than July 1, 2014. The department may readopt any emergency regulation authorized by this section that is the same as, or substantially equivalent to, an emergency regulation previously adopted under this section.

(2) The initial adoption of emergency regulations pursuant to this section and one readoption of emergency regulations shall be deemed an emergency and necessary for the immediate preservation of the public peace, health, safety, or general welfare. Initial emergency regulations and the one readoption of emergency regulations authorized by this section shall be exempt from review by the Office of Administrative Law. The initial emergency regulations and the one readoption of emergency regulations authorized by this section shall be submitted to the Office of Administrative Law for filing with the Secretary of State and each shall remain in effect for no more than 180 days, by which time final regulations may be adopted.

SEC. 94. Section 11466.23 of the Welfare and Institutions Code is amended to read:

11466.23. (a) It is the intent of the Legislature to comply with the federal requirements of the Improper Payments Act of 2002 with respect to the remittance of the federal share of foster care overpayments.

(b) For the purposes of this section, “federal foster care or adoption assistance overpayment” means any amount of aid paid to which a foster care provider or adoption assistance recipient was not entitled, including any overpayment identified by a foster

care provider as described in Section 11400, or federal Adoption Assistance Program recipient as described in Chapter 2.1 (commencing with Section 16115) of Part 4, and on and after the date that the director executes a declaration pursuant to Section 11217, any federal Kin-GAP aid paid to which a related guardian was not entitled, including any overpayment identified by a federal Kin-GAP recipient as described in Article 4.7 (commencing with Section 11385).

(c) Counties shall be required to remit the appropriate amount of federal funds upon identification of the overpayment, following the completion of due process.

(1) ~~Counties~~ *For overpayments identified prior to July 1, 2012, counties* shall not be required to repay the overpayment when any of the following occurs:

(A) The amount is legally uncollectible, including any amount legally uncollectible pursuant to Section 11466.24.

(B) The cost of collection exceeds the overpayment.

(C) The foster family agency or group home is no longer in business or licensed by the department.

(2) ~~Remittance~~ *For overpayments identified prior to July 1, 2012, remittance* of overpayments of federal AFDC-FC, federal Kin-GAP, and federal AAP funds not excluded by paragraph (1) shall be shared by the state and the counties based on the following sharing ratios:

(A) For federal AFDC-FC funds, the sharing ratios described in subdivision (c) of Section 15200.

(B) For federal Kin-GAP funds, the sharing ratios described in Section 10101.2.

(C) For federal AAP funds, the sharing ratios described in subdivision (e) of Section 15200.

(d) (1) For overpayments identified on and after July 1, 2012, the county shall pay 100 percent of the cost for remittance of all overpayments of federal AFDC-FC, federal Kin-GAP, and federal AAP funds.

~~(3) Upon~~

(2) For overpayments identified prior to July 1, 2012, upon actual collection of any overpayments from providers or recipients, the county shall ensure that the total amount reimbursed to the state reflects the federal and state share of the overpayment costs, as specified. All overpayments of federal AFDC-FC, federal

Kin-GAP, and federal AAP funds included in paragraph (1) *of subdivision (c)* shall be repaid completely with state funds.

(3) For overpayments identified on and after July 1, 2012, after remitting the federal share, the county shall retain any funds collected by the county from overpaid providers or recipients.

(4) Nothing in this section shall inhibit existing county authority to collect overpayments.

(5) Nothing in this section shall inhibit existing county responsibility to remit voluntary overpayments upon collection.

~~(d)~~

(e) (1) The department shall adopt regulations to implement this section by December 31, 2008. Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department, in consultation and coordination with the County Welfare Directors Association, may adopt emergency regulations to implement this section.

(2) The adoption of emergency regulations pursuant to subdivision (a) shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health, safety, or general welfare. 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, by which time final regulations shall be adopted.

~~(e)~~

(f) The department may only require counties to remit payment of the federal share for overpayments upon identification that occur on or after the effective date of regulations adopted pursuant to this section.

SEC. 95. Section 11467 is added to the Welfare and Institutions Code, to read:

11467. (a) The State Department of Social Services, with the advice and assistance of the County Welfare Directors Association, the Chief Probation Officer's Association, the California Mental Health Directors Association, research entities, foster youth and advocates for foster youth, foster care provider business entities organized and operated on a nonprofit basis, tribes, and other stakeholders, shall establish a working group to develop performance standards and outcome measures for providers of out-of-home care placements made under the AFDC-FC program,

including, but not limited to, foster family agency, group home, and THP-Plus providers, and for the effective and efficient administration of the AFDC-FC program.

(b) The performance standards and outcome measures shall employ the applicable performance standards and outcome measures as set forth in Sections 11469 and 11469.1, designed to identify the degree to which foster care providers, including business entities organized and operated on a nonprofit basis, are providing out-of-home placement services that meet the needs of foster children, and the degree to which these services are supporting improved outcomes, including those identified by the California Child and Family Service Review System.

(c) In addition to the process described in subdivision (a), the working group may also develop the following:

(1) A means of identifying the child's needs and determining which is the most appropriate out-of-home placement for a child.

(2) A procedure for identifying children who have been in congregate care for one year or longer, determining the reasons each child remains in congregate care, and developing a plan for each child to transition to a less restrictive, more family-like setting.

(d) The department shall provide updates regarding its progress toward meeting the requirements of this section during the 2013 and 2014 budget hearings.

(e) Notwithstanding the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 13340) of Part 1 of Division 3 of Title 2 of the Government Code), until the enactment of applicable state law, or October 1, 2015, whichever is earlier, the department may implement the changes made pursuant to this section through all-county letters, or similar instructions from the director.

SEC. 96. Section 11469 of the Welfare and Institutions Code is amended to read:

11469. (a) By July 1, 1993, the department, in consultation with group home providers, the County Welfare Directors' Association, the Chief Probation Officers' Association, the California Conference of Local Mental Health Director and the State Department of Mental Health, shall develop performance standards and outcome measures for determining the effectiveness of the care and supervision, as defined in subdivision (b) of Section

11460, provided by group homes under the AFDC-FC program pursuant to Sections 11460 and 11462. These standards shall be designed to measure group home program performance for the client group that the group home program is designed to serve.

(1) The performance standards and outcome measures shall be designed to measure the performance of group home programs in areas over which the programs have some degree of influence, and in other areas of measurable program performance that the department can demonstrate are areas over which group home programs have meaningful managerial or administrative influence.

(2) These standards and outcome measures shall include, but are not limited to, the effectiveness of services provided by each group home program, and the extent to which the services provided by the group home assist in obtaining the child welfare case plan objectives for the child.

(3) In addition, when the group home provider has identified as part of its program for licensing, ratesetting, or county placement purposes, or has included as a part of a child's case plan by mutual agreement between the group home and the placing agency, specific mental health, education, medical, and other child-related services, the performance standards and outcome measures may also measure the effectiveness of those services.

(b) Regulations regarding the implementation of the group home performance standards system required by this section shall be adopted no later than one year prior to implementation. The regulations shall specify both the performance standards system and the manner by which the AFDC-FC rate of a group home program shall be adjusted if performance standards are not met.

(c) Except as provided in subdivision (d), effective July 1, 1995, group home performance standards shall be implemented. Any group home program not meeting the performance standards shall have its AFDC-FC rate, set pursuant to Section 11462, adjusted according to the regulations required by this section.

(d) Effective July 1, 1995, group home programs shall be classified at rate classification level 13 or 14 only if all of the following are met:

(1) The program generates the requisite number of points for rate classification level 13 or 14.

(2) The program only accepts children with special treatment needs as determined through the assessment process pursuant to

~~subdivision (b) of Section 11467~~ *paragraph (2) of subdivision (a) of Section 11462.01*.

(3) The program meets the performance standards designed pursuant to this section.

(e) Notwithstanding subdivision (c), the group home program performance standards system shall not be implemented prior to the implementation of the AFDC-FC performance standards system ~~specified in Section 11215~~.

SEC. 97. Section 13754 of the Welfare and Institutions Code is amended to read:

13754. (a) It is the intent of the Legislature that nothing in this section shall be interpreted to preclude a nonminor dependent from accessing the same benefits, services, and supports, and exercise the same choices available to all ~~nonminor~~ dependents. It is further the intent of the Legislature that nonminor dependents who receive federal Supplemental Security Income benefits can serve as their own payee, if it is determined that the nonminor dependent satisfies the criteria established by the Social Security Administration, and should be assisted in receiving direct payment by the county child welfare department. It is further the intent of the Legislature that individuals who have had their eligibility for federal Supplemental Security Income benefits established pursuant to Section 13757 be able to maintain that eligibility even when they remain in the state's care as a nonminor dependent. In order to facilitate this, it is the intent of the Legislature that the county child welfare agency ensure that the youth receives an SSI payment during at least one month of each 12-month period while the youth is a nonminor dependent. It is further the intent of the Legislature that the county child welfare agency ~~may~~ supplement the SSI payment that a youth receives during this one-month period with ~~state-only~~ *nonfederal* AFDC-FC ~~or state-only Kin-GAP~~ benefits.

(b) (1) The county shall apply to be appointed representative payee on behalf of a child beneficiary in its custody when no other appropriate party is available to serve.

(2) When a child beneficiary reaches 18 years of age and elects to remain in the custody of the county as a nonminor dependent, the county shall provide information to the youth regarding the process for becoming his or her own payee and shall assist the youth in becoming his or her own payee pursuant to Section 13753, unless becoming his or her own payee is contrary to the best

interests of the youth. In the event that a youth is unable to serve as his or her payee after attaining 18 years of age, the county shall assist the youth in finding and designating an appropriate representative payee.

(c) In its capacity as representative payee, the county shall do all of the following:

(1) Establish a no-cost, interest-bearing maintenance account for each child in the department's custody for whom the department serves as representative payee. Interest earned shall be credited to the account. The county shall keep an itemized current account, in the manner required by federal law, of all income and expense items for each child's maintenance account.

(2) Establish procedures for disbursing money from the accounts, including disbursing the net balance to the beneficiary upon release from care. The county shall use social security and SSI/SSP benefits only for the following purposes:

(A) For the use and benefit of the child.

(B) For purposes determined by the county to be in the child's best interest.

(3) Establish and maintain a dedicated account in a financial institution for past-due monthly benefits that exceed six times the maximum monthly benefit payable, in accordance with federal law. The representative payee may deposit into the account established under this section any other funds representing past due benefits to the eligible individual, provided that the amount of the past due benefits is equal to or exceeds the maximum monthly benefit payable. Funds from the dedicated account shall not be used for basic maintenance costs. The use of funds from the dedicated account must be for the benefit of the child and are limited to expenditures for the following purposes:

(A) Medical treatment.

(B) Education or job skills training.

(C) Personal needs assistance.

(D) Special equipment.

(E) Housing modification.

(F) Therapy or rehabilitation.

(G) Other items or services, deemed appropriate by the Social Security Administration.

(d) Beginning 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. 98. Section 13757 of the Welfare and Institutions Code is amended to read:

13757. (a) (1) Subject to paragraph (2), every youth who is in foster care and nearing emancipation shall be screened by the county for potential eligibility for the federal Supplemental Security Income (SSI) program utilizing the best practice guidelines developed pursuant to Section 13752.

(2) The screening required in paragraph (1) shall only occur when the foster youth is at least 16 years and six months of age and not older than 17 years and six months of age. An application shall be submitted to the federal Social Security Administration on behalf of a youth who is screened as being likely to be eligible for federal Supplemental Security Income benefits. To the extent possible, the application shall be timed to allow for a determination of eligibility by the Social Security Administration prior to the youth's emancipation from care including, if appropriate, the suspension of Supplemental Security Income benefits for no more than 12 months.

(b) In carrying out the requirements of subdivision (a) for a youth receiving federally funded AFDC-FC benefits, the county shall, if necessary, forego federally funded AFDC-FC and instead use ~~state~~ *nonfederal* AFDC-FC resources to fund the placement in the month of application or in the month after making an application, and to subsequently reclaim federally funded AFDC-FC, in order to ensure that the youth meets all of the SSI eligibility requirements in a single month while the application is pending, as provided by federal law and regulation. Notwithstanding subdivision (a) of Section 11402, this section shall apply to a foster youth regardless of his or her federal AFDC-FC eligibility.

~~(c) Prior to the implementation of subdivision (b), the State Department of Social Services shall obtain clarification from the Social Security Administration and the United States Department of Health and Human Services by January 1, 2008, that the funding mechanism described in subdivision (b) is consistent with federal law and regulation.~~

~~(d)~~

(c) When a nonminor dependent has been approved for SSI payments pursuant to this section but is receiving ~~an~~ *a federally funded* AFDC-FC ~~or Kin-GAP benefit that includes federal financial participation~~ *benefit* in an amount that exceeds the SSI payment, causing the SSI payment to be placed in suspense, the county child welfare agency *shall*, during at least one month of every 12-month period, beginning with the date that the SSI benefit is placed in suspense, ~~shall~~ forego the federally funded AFDC-FC ~~or Kin-GAP benefits~~ *benefit* and instead ~~shall~~ use ~~state~~ *nonfederal* AFDC-FC ~~or Kin-GAP~~ resources to supplement the SSI benefit that the youth receives during that month. The county shall inform the Social Security Administration that the youth is not receiving any federal financial participation during that month in order to permit the nonminor dependent to receive an SSI benefit during a single month of every 12-month period. The county shall subsequently reclaim the federally funded AFDC-FC benefit ~~or Kin-GAP benefit~~ in the following month.

(d) Beginning 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. 99. Section 15200 of the Welfare and Institutions Code is amended to read:

15200. There is hereby appropriated out of any money in the State Treasury not otherwise appropriated, and after deducting federal funds available, the following sums:

(a) To each county for the support and maintenance of needy children, 95 percent of the sums specified in subdivision (a), and paragraphs (1) and (2) of subdivision (e), of Section 11450.

(b) To each county for the support and maintenance of pregnant mothers, 95 percent of the sum specified in subdivisions (b) and (c) of Section 11450.

(c) For the adequate care of each child pursuant to subdivision (d) of Section 11450, as follows:

(1) ~~For any county that meets the performance standards or outcome measures in Section 11215,~~ *Prior to the 2011–12 fiscal year,* an amount equal to 40 percent of the sum necessary for the adequate care of each child.

~~(2) For any county that does not meet the performance standards or outcome measures in Section 11215, an amount which shall not~~

~~be less than 67.5 percent of one hundred twenty dollars ($120), and multiplied by the number of children receiving foster care in the county, added to an additional twelve dollars and fifty cents ($12.50) a month per eligible child.~~

~~(3) The department shall determine the percentage of state reimbursement for those counties that fail to meet the requirements of subparagraph (1) according to the regulations required by subdivision (b) of Section 11215.~~

~~(d) Notwithstanding subdivision (c), the amount of funds appropriated from the General Fund in the annual Budget Act that equates to the amount claimed under the Emergency Assistance Program that has been included in the state's Temporary Assistance for Needy Families block grant for foster care maintenance payments shall be considered federal funds for the purposes of calculating the county share of cost, provided the expenditure of these funds contributes to the state meeting its federal maintenance of effort requirements.~~

(2) Notwithstanding paragraph (1), beginning in the 2011–12 fiscal year, and for each fiscal year thereafter, funding and expenditures for programs and activities under this subdivision shall be in accordance with the requirements provided in Sections 30025 and 30026.5 of the Government Code.

~~(e) To~~

(d) (1) Prior to the 2011–12 fiscal year for each county for the support and care of hard-to-place adoptive children, 75 percent of the nonfederal share of the amount specified in Section 16121.

~~(f) To each county for the support and care of former dependent children who have been made wards of related guardians, an amount equal to 50 percent of the Kin-GAP payment under Article 4.5 (commencing with Section 11360) of Chapter 2 minus the federal TANF block grant contribution specified in Section 11364. This subdivision shall become inoperative on July 1, 2006.~~

~~(g) The State Department of Social Services shall not implement any change in the current funding ratios to counties as a reimbursement for out-of-home care placement until the development of a new performance standard system. The State Department of Social Services shall notify the Department of Finance when the new performance standard system is developed and ready for implementation. The Department of Finance, pursuant to the provisions of Section 28 of the Budget Act, shall~~

~~notify the Joint Legislative Budget Committee in writing of its intent to implement a new performance standard that would impact the counties' funding allocation. The notification shall include the text of the draft regulations to implement the performance standards. Any adjustment in the county funding allocation shall not be implemented sooner than 60 days after receipt and review of the new performance standard by the Joint Legislative Budget Committee and a review of the proposed changes by the Legislative Analyst.~~

~~(h) Federal funds received under Title XX of the federal Social Security Act (42 U.S.C. Sec. 1397 et seq.) and appropriated by the Legislature for the Aid to Families with Dependent Children-Foster Care (AFDC-FC) program shall be considered part of the state share of cost and not part of the federal expenditures for purposes of subdivision (c).~~

(2) Notwithstanding paragraph (1), beginning in the 2011–12 fiscal year, and for each fiscal year thereafter, funding and expenditures for programs and activities under this subdivision shall be in accordance with the requirements provided in Sections 30025 and 30026.5 of the Government Code.

SEC. 100. Section 15204.25 of the Welfare and Institutions Code is repealed.

~~15204.25. Notwithstanding any other provision of law, the amount of federal funds appropriated in the annual Budget Act that equates to the amount claimed under the Emergency Assistance Program that has been included in the state's Temporary Assistance for Needy Families block grant for county administration shall be considered federal funds for the purposes of calculating the county share of cost, provided the expenditure of these funds contributes to the state meeting its federal maintenance of effort requirements.~~

SEC. 101. Section 15204.9 of the Welfare and Institutions Code is amended to read:

15204.9. ~~The~~ *(a) Prior to the 2011–12 fiscal year, the* state shall pay 70 percent of the nonfederal administrative costs of administering the Aid to Families with Dependent Children Foster Care program under Article 5 (commencing with Section 11400) of Chapter 2.

(b) Notwithstanding subdivision (a), 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.

SEC. 102. Section 16002 of the Welfare and Institutions Code is amended to read:

16002. (a) It is the intent of the Legislature to maintain the continuity of the family unit, and ensure the preservation and strengthening of the child's family ties by ensuring that when siblings have been removed from their home, either as a group on one occurrence or individually on separate occurrences, the siblings will be placed in foster care together, unless it has been determined that placement together is contrary to the safety or well-being of any sibling. The Legislature recognizes that in order to ensure the placement of a sibling group in the same foster care placement, placement resources need to be expanded.

(b) The responsible local agency shall make a diligent effort in all out-of-home placements of dependent children, including those with relatives, to place siblings together in the same placement, and to develop and maintain sibling relationships. If siblings are not placed together in the same home, the social worker shall explain why the siblings are not placed together and what efforts he or she is making to place the siblings together or why making those efforts would be contrary to the safety and well-being of any of the siblings. When placement of siblings together in the same home is not possible, a diligent effort shall be made, and a case plan prepared, to provide for ongoing and frequent interaction among siblings until family reunification is achieved, or, if parental rights are terminated, as part of developing the permanent plan for the child. If the court determines by clear and convincing evidence that sibling interaction is contrary to the safety and well-being of any of the siblings, the reasons for the determination shall be noted in the court order, and interaction shall be suspended.

(c) When there has been a judicial suspension of sibling interaction, the reasons for the suspension shall be reviewed at each periodic review hearing pursuant to Section 366. When the court determines that sibling interaction can be safely resumed, that determination shall be noted in the court order and the case plan shall be revised to provide for sibling interaction.

(d) If the case plan for the child has provisions for sibling interaction, the child, or his or her parent or legal guardian shall have the right to comment on those provisions. If a person wishes

to assert a sibling relationship with a dependent child, he or she may file a petition in the juvenile court having jurisdiction over the dependent child pursuant to subdivision (b) of Section 388.

(e) If parental rights are terminated and the court orders a dependent child to be placed for adoption, the ~~licensed~~ county adoption agency or the State Department of Social Services shall take all of the following steps to facilitate ongoing sibling contact, except in those cases provided in subdivision (b) where the court determines by clear and convincing evidence that sibling interaction is contrary to the safety or well-being of the child:

(1) Include in training provided to prospective adoptive parents information about the importance of sibling relationships to the adopted child and counseling on methods for maintaining sibling relationships.

(2) Provide prospective adoptive parents with information about siblings of the child, except the address where the siblings of the children reside. However, this address may be disclosed by court order for good cause shown.

(3) Encourage prospective adoptive parents to make a plan for facilitating postadoptive contact between the child who is the subject of a petition for adoption and any siblings of this child.

(f) Information regarding sibling interaction, contact, or visitation that has been authorized or ordered by the court shall be provided to the foster parent, relative caretaker, or legal guardian of the child as soon as possible after the court order is made, in order to facilitate the interaction, contact, or visitation.

(g) As used in this section, "sibling" means a child related to another person by blood, adoption, or affinity through a common legal or biological parent.

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

SEC. 103. Section 16100 of the Welfare and Institutions Code is amended to read:

16100. (a) Any county may ~~apply for, and the department may issue pursuant to Chapter 3 (commencing with Section 1500) of Division 2 of the Health and Safety Code to any county agency designated by the county making the application, a license to~~ perform the home-finding and placement functions, to investigate,

examine, and make reports upon petitions for adoption filed in the superior court, to act as a placement agency in the placement of children for adoption, to accept relinquishments for adoption, and to perform such other functions in connection with adoption as the department deems necessary, or to do any of them. Nothing in this section shall be construed to authorize a ~~licensed~~ county adoption agency, as provided in subdivision (d), to provide intercountry adoption services.

(b) Notwithstanding any other ~~provision of~~ law, a ~~licensed~~ county adoption agency *performing the functions specified in subdivision (a)* may contract for services described in subdivision (a) from any licensed private adoption agency that the private adoption agency is licensed to provide pursuant to Chapter 3 (commencing with Section 1500) of Division 2 of the Health and Safety Code. A licensed county adoption agency may also contract for services described in subdivision (a) from any out-of-state licensed public or private adoption agency that is licensed pursuant to the laws of that state. Any services contracted for shall substantially meet the standards and criteria established in California adoption regulations as determined by the licensed county adoption agency. These services shall be contracted for in order to facilitate adoptive placement of a specified category of children for whom the licensed county adoption agency has determined it cannot provide adequate services.

~~(c) In order to extend the services of county adoption agencies to the maximum number of counties practicable within the limits of funds appropriated therefor, the department may license a county adoption agency to operate in such other counties in the general area of the agency as it deems conducive to the effective and efficient administration of the adoption program.~~

~~(d) A license issued to a county agency pursuant to this section constitutes the holder thereof a "county adoption agency" and the holder shall be deemed to be an "organization" within the meaning of this code and of Division 13 (commencing with Section 8500) of the Family Code.~~

(c) Counties that elect not to provide the adoption services specified in subdivision (a) may contract with the department or another county adoption agency to provide those services.

SEC. 104. Section 16101 of the Welfare and Institutions Code is amended to read:

16101. ~~The~~ *(a) Prior to the 2011–12 fiscal year, the* cost of administering the adoption programs undertaken by a county under license issued pursuant to Section 16100 of this code shall be borne by the state in the amount found necessary by the department for proper and efficient administration. The state shall reimburse the county for all such necessary administrative costs, after deducting therefrom the amount of fees collected by the county agency pursuant to Section 8716 of the Family Code.

(b) Beginning in the 2011–12 fiscal year, and each fiscal year thereafter, funding and expenditures for programs and activities under the section for the purposes of administering the adoption programs shall be in accordance with the requirements provided in Sections 30025 and 30026.5 of the Government Code.

SEC. 105. Section 16105 of the Welfare and Institutions Code is amended to read:

~~16105. County claims for reimbursement for expenses incurred for the operation of a county adoption agency shall be filed with the department at the time and in the manner specified by the department, and the claims shall be subject to audit by the department. Whenever a claim covering a prior fiscal year is found to have been in error, adjustment may be made on a current claim without the necessity of applying adjustment to the appropriation for the prior fiscal year.~~

~~The department shall adopt such rules as may be necessary to determine the cost of administration and the cost of care of children relinquished for adoption, and to provide for the presentation, allowance, and payment of such claims.~~

~~If~~

16105. If any grants-in-aid are made by the federal government for the cost of administering an adoption program, or for the cost of care of children relinquished for adoption, the amount of the federal grant shall ~~first~~ be applied to defer the cost of administration or of care~~, and the remainder of the cost, if any, shall be borne by the state~~.

SEC. 106. Section 16118 of the Welfare and Institutions Code is amended to read:

16118. (a) The department shall establish and administer the program to be carried out by the department or the county pursuant to this chapter. The department shall adopt any regulations necessary to carry out the provisions of this chapter.

(b) The department shall keep the records necessary to evaluate the program's effectiveness in encouraging and promoting the adoption of children eligible for the Adoption Assistance Program.

(c) The department or the county responsible for providing financial aid in the amount determined in Section 16120 shall have responsibility for certifying that the child meets the eligibility criteria and for determining the amount of financial assistance needed by the child and the adopting family.

(d) The department shall actively seek and make maximum use of federal funds that may be available for the purposes of this chapter. In accordance with federal law, any savings ~~in state funds~~ realized from the change in federal funding for adoption assistance resulting from the enactment of ~~Public Law 110-351~~ *the federal Fostering Connections to Success and Increasing Adoptions Act of 2008 (Public Law 110-351)* shall be spent for the provision of foster care and adoption services*, and the counties shall annually report to the department how these savings are spent, including any expenditures for post-adoption services. The process for submitting this information shall be developed by the department, in consultation with counties*. All gifts or grants received from private sources for the purpose of this chapter shall be used to offset public costs incurred under the program established by this chapter.

(e) For purposes of this chapter, the county responsible for determining the child's Adoption Assistance Program eligibility status and for providing financial aid in the amount determined in Sections 16120 and 16120.1 shall be the county that, at the time of the adoptive placement, would otherwise be responsible for making a payment pursuant to Section 11450 under the CalWORKs program or Section 11461 under the Aid to Families with Dependent Children-Foster Care program if the child were not adopted. When the child has been voluntarily relinquished for adoption prior to a determination of eligibility for this payment, the responsible county shall be the county in which the relinquishing parent resides. The responsible county for all other eligible children shall be the county where the child is physically residing prior to placement with the adoptive family. The responsible county shall certify eligibility on a form prescribed by the department.

(f) 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.

SEC. 107. Section 16119 of the Welfare and Institutions Code is amended to read:

16119. (a) At the time application for adoption of a child who is potentially eligible for Adoption Assistance Program benefits is made, and at the time immediately prior to the finalization of the adoption decree, the department*, county adoption agency,* or the licensed adoption agency, whichever is appropriate, shall provide the prospective adoptive family with information, in writing, on the availability of Adoption Assistance Program benefits, with an explanation of the difference between these benefits and foster care payments. The department*, county adoption agency,* or the licensed adoption agency shall also provide the prospective adoptive family with information, in writing, on the availability of reimbursement for the nonrecurring expenses incurred in the adoption of the Adoption Assistance Program eligible child. The department*, county adoption agency,* or licensed adoption agency shall also provide the prospective adoptive family with information on the availability of mental health services through the Medi-Cal program or other programs. The department*, county adoption agency,* or licensed adoption agency shall also provide information regarding the federal adoption tax credit for any individual who is adopting or considering adopting a child in foster care, in accordance with Section 403 of the federal Fostering Connections to Success and Increasing Adoptions Act of 2008 (Public Law 110-351).

(b) The department*, county adoption agency,* or ~~the~~ licensed *adoption* agency shall encourage families that elect not to sign an adoption assistance agreement to sign a deferred adoption assistance agreement.

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

(d) (1) The amount of an adoption assistance cash benefit, if any, shall be a negotiated amount based upon the needs of the child

and the circumstances of the family. There shall be no means test used to determine an adoptive family's eligibility for the Adoption Assistance Program, or the amount of adoption assistance payments. In those instances where an otherwise eligible child does not require a cash benefit, Medi-Cal eligibility may be established for the child, as needed.

(2) For purposes of paragraph (1), "circumstances of the family" includes the family's ability to incorporate the child into the household in relation to the lifestyle, standard of living, and future plans and to the overall capacity to meet the immediate and future plans and needs, including education, of the child.

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

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

(1) The department *or county adoption agency* determines that the adoptive parents are no longer legally responsible for the support of the child.

(2) The department *or county adoption agency* determines that the child is no longer receiving support from the adoptive family.

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

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

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

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

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

SEC. 108. Section 16120 of the Welfare and Institutions Code, as amended by Section 39 of Chapter 459 of the Statutes of 2011, 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.

(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, three years of age 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 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 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.

(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.

(*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).

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

SEC. 109. Section 16120 of the Welfare and Institutions Code, as amended by Section 40 of Chapter 459 of the Statutes of 2011, is repealed.

~~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.~~

~~(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, three years of age 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 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 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.~~

~~(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.~~

~~(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.~~

~~(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.~~

~~(*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 his or her sibling.~~

~~(C) He or she meets the requirements of subdivision (k).~~

~~(o) This section shall become operative on January 1, 2014.~~

SEC. 110. 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 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. ~~The state shall provide payment to the county for the reimbursement.~~ 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. 111. Section 16121.05 of the Welfare and Institutions Code is amended to read:

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

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

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

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

(b) Children on whose behalf an adoption assistance agreement had been executed prior to October 1, 1992, shall continue to

receive adoption assistance in accordance with the terms of that agreement.

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

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

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

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

SEC. 112. 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 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 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.

~~(e) Commencing with the budget subcommittee hearings for the 2008–09 fiscal year, the State Department of Social Services shall review the reimbursement methodology for the program and annually provide information to the fiscal committees of the Legislature on all of the following:~~

~~(1) The costs and savings, to the extent that these can be assessed, associated with increasing the reimbursement rate.~~

~~(2) Outcome data, including the increased number of adoptive placements and finalized adoptions, and how these outcomes compare to prior years.~~

~~(3) The progress toward earning federal adoption incentives.~~

~~(4) The number of new agencies participating in the placement of children pursuant to this section.~~

SEC. 113. 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 the age of 18 or 21 if the child has mental or physical handicaps, or effective January 1, 2012, up to 21 years of age, if the child 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. ~~In those cases, a parent may, until October 1, 1992, petition the department or licensed adoption agency to continue financial assistance up to age of majority.~~ 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. 114. Section 16133 is added to the Welfare and Institutions Code, to read:

16133. On and after July 1, 2011, when a person has been an employee of the State Department of Social Services within the 12-month period prior to his or her employment by a county, the board of supervisors, to the extent feasible, may allow that person to retain, as a county employee, those employee benefits to which that person was entitled or had accumulated as an employee of the State Department of Social Services, or provide that employee with comparable benefits provided for other county employees whose services as county employees is equal to the state service of the former employee of the State Department of Social Services. These benefits include, but are not limited to, retirement benefits, seniority rights under civil service, accumulated vacation, and sick leave.

SEC. 115. Chapter 2.3 (commencing with Section 16135) of Part 4 of Division 9 of the Welfare and Institutions Code, as added by Section 29 of Chapter 329 of the Statutes of 1998, is repealed.

SEC. 116. Section 16135 of the Welfare and Institutions Code, as added by Section 2 of Chapter 1014 of the Statutes of 1998, is amended to read:

16135. The purpose of this chapter is to establish a program for special training and services to facilitate the adoption of children who are HIV positive, or born to a substance-abusing mother. This program shall be available to any county that ~~requests participation~~ *elects to participate* pursuant to procedures established by the department ~~to the extent funds are appropriated through the annual Budget Act. Nothing in this chapter shall authorize the use of state funds appropriated for any other purpose to be used in this program~~.

SEC. 117. Section 16135.10 of the Welfare and Institutions Code, as added by Section 2 of Chapter 1014 of the Statutes of 1998, is amended to read:

16135.10. (a) In order to promote successful adoptions of substance and alcohol exposed court dependent children, ~~the~~

~~department~~ *participating counties* shall ~~establish~~ *maintain* a program of specialized training and supportive services to families adopting court dependent children who are either HIV positive or assessed as being prenatally exposed to alcohol or a controlled substance.

(b) The program shall include respite services. Notwithstanding any other provision of law, respite services shall be funded with a 30 percent nonfederal county share consistent with the normal sharing ratio for child welfare services. This county share may be provided with county general funds, in-kind contributions, or other funds ~~not appropriated by the Budget Act~~. The source of the county share shall meet all applicable state and federal requirements and provide counties with maximum flexibility.

(c) Notwithstanding subdivision (b), beginning 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. 118. Section 16135.16 of the Welfare and Institutions Code, as added by Section 2 of Chapter 1014 of the Statutes of 1998, is amended to read:

~~16135.16. (a) In order to receive funding, all participating counties shall submit and have an approved plan that is in compliance with the policies and procedures established by the department.~~

~~(b)~~

16135.16. The requirements of this section may be met by the implementation of the TIES for Adoption program as defined in Subdivision (b) of Section 16135.1.

SEC. 119. Section 16135.26 of the Welfare and Institutions Code, as added by Section 2 of Chapter 1014 of the Statutes of 1998, is repealed.

~~16135.26. If a participating county has an existing contract for the provision of services provided for under this chapter, that contract may be continued through the 1998–99 state fiscal year.~~

SEC. 120. Section 16500.5 of the Welfare and Institutions Code is amended to read:

16500.5. (a) (1) The Legislature hereby declares its intent to encourage the continuity of the family unit by:

(A) (i) Providing family preservation services.

(ii) For purposes of this subdivision, "family preservation services" means intensive services for families whose children, without these services, would be subject to any of the following:

(I) Be at imminent risk of out-of-home placement.

(II) Remain in existing out-of-home placement for longer periods of time.

(III) Be placed in a more restrictive out-of-home placement.

(B) Providing supportive services for those children within the meaning of Sections 360, 361, and 364 when they are returned to the family unit or when a minor will probably soon be within the jurisdiction of the juvenile court pursuant to Section 301.

(C) Providing counseling and family support services designed to eradicate the situation that necessitated intervention.

(2) The Legislature finds that maintaining abused and neglected children in foster care grows increasingly costly each year, and that adequate funding for family services which might enable these children to remain in their homes is not as readily available as funding for foster care placement.

(3) The Legislature further finds that other state bodies have addressed this problem through various systems of flexible reimbursement in child welfare programs that provide for more intensive and appropriate services to prevent foster care placement or significantly reduce the length of stay in foster care.

~~(4) Accordingly, it is the intent of the Legislature in enacting this section to establish a system of flexible reimbursement in order to evaluate its potential as an efficient, economical, and effective alternative to out-of-home placement of children.~~

(b) It is the intent of the Legislature that family preservation and support services in California conform to the federal definitions contained in Section 431 of the Social Security Act as contained in Public Law 103-66, the Omnibus Budget Reconciliation Act of 1987. The Legislature finds and declares that California's existing family preservation programs meet the intent of ~~this new~~ *the* federal ~~initiative~~ *Promoting Safe and Stable Families program*.

~~(c) (1) (A) (i) Any county, subject to the approval of the State Department of Social Services, may claim, on an annual basis, a portion of the state's share, and to the extent permitted, the federal share, of that county's AFDC-FC expenditures pursuant to subdivision (d) of Section 11450 for children subject to Sections 300, 301, 360, 361, and 364, in advance, provided the county~~

~~conducts a program of family reunification and family maintenance services for families receiving these services pursuant to Sections 300, 301, 360, 364, and, as permitted by the department, children subject to Sections 601, 602, 726, and 727 of this code, and Section 7572.5 of the Government Code.~~

~~(ii) The department or a participating county may terminate a county's participation in the program upon 30 days' notice if the project is deemed unsuccessful by either party.~~

~~(iii) For each fiscal year of the program, a participating county may claim in advance an amount not to exceed an actual dollar amount that shall not exceed 25 percent of the state's share, and to the extent permitted, the federal share, of AFDC-FC funds to be expended by that county pursuant to subdivision (d) of Section 11450 for children subject to Sections 300, 301, 360, 361, and 364, and if permitted by the department, Sections 601, 602, 726, and 727, calculated for the first year of the project.~~

~~(iv) The amount of funds to be advanced annually shall be calculated at the beginning of the county's program described in this subdivision. The advance shall be determined by projecting the state share of AFDC-FC General Fund expenditures, and to the extent permitted, the federal share of AFDC-FC expenditures for abused or neglected children pursuant to Sections 300, 301, 360, 361, 364, and, if permitted by the department, Sections 601, 602, 726, and 727, based upon state, and to the extent permitted, federal expenditures for AFDC-FC for the previous five years.~~

~~(B) Except as provided in subparagraph (C), if the county's total AFDC-FC General Fund expenditures and, to the extent permitted by federal law, the federal share of AFDC-FC expenditures, added to the amount expended from the advance to the county exceeds, by more than 5 percent, the county's total projected AFDC-FC General Fund expenditures and, to the extent permitted by federal law, the federal share of AFDC-FC expenditures for that fiscal year, the county shall fund that portion of the overage in excess of 5 percent on a 100-percent basis. If the sum of a participating county's total AFDC-FC General Fund expenditures and, to the extent permitted by federal law, the federal share of AFDC-FC expenditures for their children, added to the amount expended from the advance to the county, is less than the total projected AFDC-FC General Fund expenditures and, to the extent permitted by federal law, the federal share of AFDC-FC expenditures for~~

~~their children for that fiscal year, the county shall receive 25 percent of the amount of the savings.~~

~~(C) (i) A participating county's share of expenditures in excess of the projected total may be reduced upon approval of the department. In determining this reduction, the department shall consider the increase in foster care placements of children in the homes of relatives as provided in Sections 361.3 and 16501.1, and in Section 505 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (P.L. 104-193; 42 U.S.C.A. Sec. 671(a)), which result in higher than projected AFDC-FC expenditures for children described in subparagraph (A). In considering the increase in relative foster care placements, the department shall adjust the total to consider only those children whose families have no history of receiving family preservation services.~~

~~(ii) This subparagraph shall become inoperative on the date that the director executes a declaration, which shall be retained by the director, specifying that the department has established a kinship care program that is separate and distinct from the existing foster care program and that provides services uniquely suited to the needs of children being cared for by their kin, or on January 1, 2002, whichever is earlier.~~

~~(2)~~

(c) (1) Services which may be provided under this program may include, but are not limited to, counseling, mental health treatment and substance abuse treatment services, parenting, respite, day treatment, transportation, homemaking, and family support services. Each county that chooses to provide mental health treatment and substance abuse treatment shall identify and develop these services in consultation with county mental health treatment and substance abuse treatment agencies. Additional services may include those enumerated in Sections 16506 and 16507. The services to be provided pursuant to this section may be determined by each participating county. Each county may contract with individuals and organizations for services to be provided pursuant to this section. Each county shall utilize available private nonprofit resources in the county prior to developing new county-operated resources when these private nonprofit resources are of at least equal quality and costs as county-operated resources and shall

utilize available county resources of at least equal quality and cost prior to new private nonprofit resources.

~~(3)~~

(2) Participating counties authorized by this subdivision shall provide specific programs of direct services based on individual family needs as reflected in the service plans to families of the following:

(A) Children who are dependent children not taken from physical custody of their parents or guardians pursuant to Section 364.

(B) Children who are dependent children removed from the physical custody of their parents or guardian pursuant to Section 361.

(C) Children who it is determined will probably soon be within the jurisdiction of the juvenile court pursuant to Section 301.

(D) Upon approval of the department, children who have been adjudged wards of the court pursuant to Sections 601 and 602.

(E) Upon approval of the department, families of children subject to Sections 726 and 727.

(F) Upon approval of the department, children who are determined to require out-of-home placement pursuant to Section 7572.5 of the Government Code.

~~(4)~~

(3) The services shall only be provided to families whose children will be placed in out-of-home care without the provision of services or to children who can be returned to their families with the provision of services.

~~(5)~~

(4) The services selected by any participating county shall be reasonable and meritorious and shall demonstrate cost-effectiveness and success at avoiding out-of-home placement, or reducing the length of stay in out-of-home placement. A county shall not expend more funds for services under this subdivision than that amount which would be expended for placement in out-of-home care.

~~(6)~~

(5) The program in each county shall be deemed successful if it meets the following standards:

(A) Enables families to resolve their own problems, effectively utilize service systems, and advocate for their children in educational and social agencies.

(B) Enhancing family functioning by building on family strengths.

(C) At least 75 percent of the children receiving services remain in their own home for six months after termination of services.

(D) During the first year after services are terminated:

(i) At least 60 percent of the children receiving services remain at home one year after services are terminated.

(ii) The average length of stay in out-of-home care of children selected to receive services who have already been removed from their home and placed in out-of-home care is 50 percent less than the average length of stay in out-of-home care of children who do not receive program services.

(E) Two years after the termination of family preservation services:

(i) The average length of out-of-home stay of children selected to receive services under this section who, at the time of selection, are in out-of-home care, is 50 percent less than the average length of stay in out-of-home care for children in out-of-home care who do not receive services pursuant to this section.

(ii) At least 60 percent of the children who were returned home pursuant to this section remain at home.

~~(7)~~

(6) Funds used for services provided under this section shall supplement, not supplant, child welfare services funds available for services pursuant to Sections 16506 and 16507.

~~(8) Each county participating in the program authorized by this section shall only continue to utilize the advance fund-claiming mechanism specified in paragraph (1) if the department finds the county has demonstrated the successful outcome of the county program, based on the criteria for success specified in paragraph (6).~~

~~(9)~~

(7) Programs authorized after the original pilot projects shall submit data to the department upon the department's request.

(d) (1) A county welfare department social worker or probation officer may, pursuant to an appropriate court order, return a dependent minor or ward of the court removed from the home pursuant to Section 361 to his or her home, with appropriate interagency family preservation program services.

(2) The county probation department may, with the approval of the State Department of Social Services, through an interagency agreement with the county welfare department, refer cases to the county welfare department for the direct provision of services under this subdivision.

(e) ~~State foster~~ *Foster* care funds shall remain within the administrative authority of the county welfare department and shall be used only for placement services or placement prevention services or county welfare department administrative cost related to the interagency family preservation program.

(f) To the extent permitted by federal law, any federal funds provided for services to families and children may be utilized for the purposes of this section.

(g) A county may establish family preservation programs that serve one or more geographic areas of the county, subject to the approval of the State Department of Social Services.

(1) All funds expended by a county for activities under this section shall be expended by the county in a manner that will maximize eligibility for federal financial participation.

(2) Any county, subject to the approval of the State Department of Social Services, may claim federal financial participation, if allowable and available, as provided by the State Department of Social Services in the federal Promoting Safe and Stable Families program in accordance with the federal guidelines and regulations for that county's AFDC–FC expenditures pursuant to subdivision (d) of Section 11450, for children subject to Sections 300, 301, 360, and 364, in advance, provided that the county conducts a program of family reunification and family maintenance services for families receiving these services pursuant to Sections 300, 301, 360, and 364, and as permitted by the department, children subject to Sections 601, 602, 726, and 727, and Section 7572.5 of the Government Code.

(h) In order to maintain federal funding and meet federal requirements, the State Department of Social Services and the Office of Child Abuse Prevention shall provide administrative oversight, monitoring, and consultation to ensure both of the following:

(1) Each county includes in its county plan information that details what services are to be funded under this section and who will be served, and how the services are coordinated with the array

of services available in the county. In order to maintain federal funding to meet federal requirements, the State Department of Social Services shall review these plans and provide technical assistance as needed, as provided in Section 10601.2. In order to meet federal requirements, the Office of Child Abuse Prevention shall require counties to submit annual reports, as part of the current reporting process, on program services and children and families served. The annual reporting process shall be developed jointly by the department and county agencies for the purpose of meeting federal reporting requirements.

(2) In order to maximize federal financial participation for the federal Promoting Safe and Stable Families grant, funds expended from this program are in compliance with data-reporting requirements in order to meet federal nonsupplantation requirements in accordance with Section 1357.32 (f) of Title 45 of the Code of Federal Regulations, and the 25 percent state match requirement in accordance with Section 1357.32(d) of Title 45 of the Code of Federal Regulations.

(i) 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 made with moneys allocated pursuant to Sections 30025 and 30029.2 of the Government Code.

SEC. 121. Section 16500.51 of the Welfare and Institutions Code, as added by Section 4 of Chapter 1120 of the Statutes of 1990, is amended to read:

16500.51. (a) In addition to participation in the program provided for under Section 16500.5, Solano and Alameda Counties may, on a two-year project basis, and subject to the election of the board of supervisors of each county to participate, expand the program provided for in Section 16500.5 to also provide those family preservation services to:

(1) Children who have been adjudged wards of the court pursuant to Sections 601 and 602.

(2) Families of children subject to Section 726 and 727.

(b) Except as otherwise provided in this section, the expanded programs authorized under this section shall be subject to all of the provisions of Section 16500.5 and shall be administered in accordance with Section 16500.5~~, including, but not limited to, the funding mechanism set forth in paragraph (1) of subdivision (b) of Section 16500.5~~.

(c) The county probation department, through an interagency agreement with the county welfare department, may refer cases to the county welfare department for the provision of services under this subdivision.

(d) The county shall ensure that the proportion of funds used for family preservation services for families and children needing these services pursuant to Sections 300, 330, 361, and 364 shall be no less than the proportion of those children in the county's foster care population.

(e) A dependent minor or ward of the court removed from the home pursuant to Section 726 may also be returned to his or her home with appropriate interagency family preservation services as provided in subdivision (c) of Section 16500.5.

(f) This participation is subject to the provisions of Section 16500.5.

SEC. 122. Section 16500.51 of the Welfare and Institutions Code, as added by Section 2 of Chapter 1069 of the Statutes of 1998, is repealed.

~~16500.51. (a) Any county that elects to continue to conduct a family preservation program pursuant to subdivision (c) of Section 16500.5 may request a permanent transfer of funds from the category of General Fund moneys appropriated for out-of-home placement provided pursuant to subdivision (d) of Section 11450 for children subject to Section 300, 301, 360, 361, or 364, and, as permitted by the department, children subject to Sections 601, 602, 726, 727, and 7572.5 of the Government Code, for that county, to the category of child welfare services as specified in subdivision (j) of Section 16501 for the purposes of providing family preservation services, if the county's implementation of the family preservation program has been based upon a plan, approved by the department, that includes phased-in implementation. The amount identified for transfer shall be the amount calculated as provided in Section 16500.5.~~

~~(b) Subject to the approval of the department, a county may receive upon its request, at any time after the permanent transfer of funds specified in subdivision (a) has been made, a supplemental permanent transfer of funds to serve additional populations of eligible children who were not served during the initial phase of plan implementation. The maximum amount that may be~~

~~transferred pursuant to this subdivision shall be subject to the limits specified in subdivision (c) of Section 16500.5.~~

SEC. 123. Section 16500.55 of the Welfare and Institutions Code is amended to read:

~~16500.55. (a) Subject to the approval of the State Department of Social Services and the Department of Finance, the family preservation program provided for under Section 16500.5 may be expanded to allow the participation of any county which submits a family preservation plan pursuant to Section 16500.5 to the State Department of Social Services.~~

~~(b) All of these family preservation programs shall be implemented and administered in accordance with Section 16500.5.~~

~~(c) The department shall only approve participation of any county that was not participating in the program, pursuant to subdivision (b) of Section 16500.5, on September 21, 1990, if the county has a high probability of success and if the majority of the family preservation projects are deemed successful, based on criteria set forth in paragraph (7) of subdivision (b) of Section 16500.5.~~

~~(d) Not more than 24 additional counties per year may participate pursuant to this section.~~

~~(e)~~

16500.55. Any county ~~which~~ *that* participates in the program pursuant to this section on or after the effective date of the act which amends this section in the 1991 calendar year shall provide services to children who have been adjudged wards of the court pursuant to Sections 601 and 602 only to the extent approved by the department.

SEC. 124. Section 16500.65 of the Welfare and Institutions Code is amended to read:

16500.65. (a) In addition to the three programs authorized under Section 16500.5, Contra Costa County may implement a family preservation and reunification program. The program shall be administered in accordance with Section 16500.5, ~~including, but not limited to, the funding mechanism set forth in paragraph (1) of subdivision (b) of Section 16500.5,~~ and shall be subject to all of the provisions of that section.

(b) The family preservation program authorized by this section may serve all of the following:

(1) Families receiving those services pursuant to Sections 300, 330, 361, and 364.

(2) Children who have been adjudged wards of the court pursuant to Sections 601 and 602.

(3) Families of children subject to Sections 726 and 727.

(c) The county probation department may, through an interagency agreement with the county welfare department, refer cases to the county welfare department for the direct provision of services under this subdivision.

(d) The county shall ensure that the proportion of funds used for family preservation services for families and children needing those services pursuant to Sections 300, 330, 361, and 364 shall be no less than the proportion of those children in the county's foster care program.

~~(e) Any private funds made available to the county for family preservation services shall be applied to the AFDC-FC advance through the end of the 1990–91 fiscal year.~~

~~(f)~~

(e) The project authorized by this subdivision shall be deemed successful if the following criteria have been met:

(1) At least 75 percent of the children who are not placed in out-of-home care and who receive project services remain in their home for at least six months after the termination of family preservation services.

(2) Two years after the termination of family preservation services, the average length of out-of-home stay of children selected to receive services under this section who, at the time of selection, are in out-of-home care, is 50 percent less than the average length of stay in out-of-home care for children in out-of-home care who do not receive demonstration project services pursuant to this section.

(3) Two years after project services are terminated, at least 60 percent of the children who were returned home with project services remain at home.

~~(g)~~

(f) (1) The participating county shall submit, to the department and to the appropriate committees of the Legislature, a preliminary report upon the conclusion of the demonstration project, and a final report six months after the conclusion of the project.

(2) The participating county shall, in the reports required by paragraph (1), demonstrate the extent the project met the criteria for determining the success of the project specified in subdivision ~~(f)~~ *(e)*.

~~(h)~~

(g) A dependent minor or ward of the court removed from the home pursuant to Section 726 may also be returned to his or her home with appropriate interagency family preservation services as provided in subdivision (c) of Section 16500.5.

SEC. 125. Section 16500.8 of the Welfare and Institutions Code is amended to read:

16500.8. (a) The department shall, in consultation with ~~the County Welfare Directors Association~~ *counties*, seek additional federal revenues to finance the family preservation activities described in Section 16500.7. Those revenue sources shall include, but need not be limited to, all of the following:

(1) Title IV-A of the federal Social Security Act, contained in Part A (commencing with Section 601) of Subchapter 4 of Chapter 7 of Title 42 of the United States Code.

(2) Title IV-E of the federal Social Security Act contained in Part E (commencing with Section 670) of Subchapter 4 of Chapter 7 of Title 42 of the United States Code.

(3) Title IV-B of the federal Social Security Act contained in Part B (commencing with Section 620) of Subchapter 4 of Chapter 7 of Title 42 of the United States Code.

(4) Title XIX of the federal Social Security Act, contained in Subchapter 19 (commencing with Section 1396) of Chapter 7 of Title 42 of the United States Code.

(b) It is the intent of the Legislature that any additional funds received pursuant to this section shall supplement, and not supplant, existing ~~General Fund support~~ *funding* for family preservation services.

SEC. 126. 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. ~~On~~

(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, including the documentation required by subdivision (c) of Section 11403, 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 ~~setting~~ *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.

~~(2)~~

(4) In addition to the requirements of ~~paragraph (1)~~ *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 Section 366.21, 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 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 or 366.22 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 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 whether the youth has an in-progress application pending for Title XVI Supplemental Security Income benefits or for Special Juvenile Immigration 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 case plan shall include a written description of the program 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 Section 11403. If applicable, the case plan shall describe the individualized supervision provided in the supervised independent living setting 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.

(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.

(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. 127. 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) ~~Counties~~ *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 follow-up contact to assess the child's progress in meeting treatment goals.

(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.

~~(e)~~

(f) (1) Notwithstanding Section 10101~~ of the Welfare and Institutions Code~~, *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. 128. Section 16501.5 of the Welfare and Institutions Code is amended to read:

16501.5. (a) In order to protect children and effectively administer and evaluate California's Child Welfare Services and Foster Care programs, the department shall implement a single statewide Child Welfare Services Case Management System no later than July 1, 1993.

(b) It is the intent of the Legislature in developing and implementing a statewide Child Welfare Services Case Management System to minimize the administrative and systems barriers which inhibit the effective provision of services to children and families by applying current technology to the systems which support the provision and management of child welfare services. Therefore, it is the intent of the Legislature that the Child Welfare Services Case Management System achieve all of the following:

(1) Provide child welfare services workers with immediate access to child and family specific information in order to make appropriate and expeditious case decisions.

(2) Provide child welfare services workers with the case management information needed to effectively and efficiently manage their caseloads and take appropriate and timely case management actions.

(3) Provide state and county child welfare services management with the information needed to monitor and evaluate the accomplishment of child welfare services tasks and goals.

(4) Provide all child welfare services agencies with a common data base and definition of information from which to evaluate the child welfare services programs in terms of the following:

(A) Effectiveness in meeting statutory and regulatory mandates, goals, and objectives of the programs.

(B) Effectiveness in meeting the needs of the families and children serviced by the program.

(C) Projecting and planning for the future needs of the families and children served by the program.

(5) Meeting federal statistical reporting requirements with a minimum of duplication of effort.

(6) Consolidate the collection and reporting of information for those programs which are closely related to child welfare services, including foster care and emergency assistance.

(7) Utilize the child welfare services functionality defined in current and planned automated systems as the foundation for the development of the technical requirements for the Child Welfare Services Case Management System.

(c) It is the intent of the Legislature that the Child Welfare Services Case Management System shall provide the required comprehensive and detailed individual county data needed by the department to implement and monitor the performance standards system ~~specified in Section 11215~~.

~~(d) If the Child Welfare Services Case Management System is not implemented statewide by July 1, 1993, Section 15200, which provides for State Treasury appropriations equal to 40 percent of the sum necessary for the adequate care of each child pursuant to subdivision (d) of Section 11450, shall remain in effect until two years after the implementation of the Child Welfare Services Case Management System.~~

SEC. 129. Section 16501.8 of the Welfare and Institutions Code is amended to read:

16501.8. ~~(a) Once a consistent data entry field or fields have been designated in the statewide child welfare database, social~~ *Social* workers shall make reasonable efforts to collect and update necessary data regarding a child's incarcerated parent or parents.

~~(b) The Legislature encourages the State Department of Social Services to consult with the county welfare directors regarding the best way to incorporate the information specified in subdivision (a) as a required field in the statewide database.~~ The Legislature ~~also~~ encourages the Department of Justice, the Department of Corrections and Rehabilitation, county welfare departments, and county sheriffs to develop protocols for facilitating the exchange of information regarding the location and sentencing of the incarcerated parent or parents of a minor child who is in dependency care.

~~(c) Nothing~~

Nothing in this section shall be interpreted to require the department to create a new field in the statewide database for incorporating the information specified in this section.

SEC. 130. Section 16508 of the Welfare and Institutions Code, as amended by Section 68 of Chapter 559 of the Statutes of 2010, 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. Permanent placement 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) This section shall remain in effect only until January 1, 2014, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2014, deletes or extends that date.~~

SEC. 131. Section 16508 of the Welfare and Institutions Code, as amended by Section 69 of Chapter 559 of the Statutes of 2010, is repealed.

~~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. Permanent placement 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, 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) This section shall become operative on January 1, 2014.~~

SEC. 132. Section 16508.1 of the Welfare and Institutions Code, as amended by Section 23 of Chapter 287 of the Statutes of 2009, is amended to read:

16508.1. (a) For every child who is in foster care, or who enters foster care, on or after January 1, 1999, and has been in foster care for 15 of the most recent 22 months, the social worker shall submit to the court a recommendation that the court set a hearing pursuant to Section 366.26 for the purpose of terminating parental rights. The social worker shall concurrently initiate and describe a plan to identify, recruit, process and approve a qualified family for adoption of the child.

(b) The social worker is not required to submit the recommendation as described in subdivision (a) if any of the following applies:

(1) The case plan for the child has documented a compelling reason or reasons why it is unlikely that the child will be adopted, as determined by the department when it is acting as an adoption agency or by the licensed adoption agency, and therefore termination of parental rights would not be in the best interest of

the child or that one of the conditions set forth in paragraph (1) of subdivision (c) of Section 366.26 applies.

(2) A hearing under Section 366.26 is already set.

(3) The court has found at the previous hearing under Section 366.21 that there is a substantial probability that the child will be returned to the child's home within the extended period of time permitted.

(4) The court has found at the previous hearing under Section 366.21 that reasonable reunification services have not been offered or provided.

(5) The court has found at each and every hearing at which the court was required to consider reasonable efforts or services that reasonable efforts were not made or that reasonable services were not offered or provided.

(6) The incarceration or institutionalization of the parent or parents, or the court-ordered participation of the parent or parents in a residential substance abuse treatment program, constitutes a significant factor in the child's placement in foster care for a period of 15 of the most recent 22 months, and termination of parental rights is not in the child's best interests, considering factors such as the age of the child, the degree of parent and child bonding, the length of the sentence, and the nature of the treatment and the nature of the crime or illness.

(7) Tribal customary adoption is recommended.

(c) A recommendation to the court pursuant to subdivision (a) shall not be made if the social worker documents in the case record a compelling reason why a hearing pursuant to Section 366.26 is not in the best interest of the child, or that reasonable efforts to safely return the child home are continuing consistent with the time period provided for in paragraph (1) of subdivision (g) of Section 366.21.

(d) Beginning January 1, 1999, the county welfare department shall implement a procedure for reviewing the application of this section to the case plans of all children who have been in foster care for 15 out of the most recent 22 months. The review shall proceed within the following timeframes:

(1) By July 1, 1999, one-third of the children shall have been reviewed, giving priority to children who have been in foster care the greatest length of time.

(2) By January 1, 2000, at least two-thirds of the children shall have been reviewed.

(3) By July 1, 2000, all children shall have been reviewed.

(e) For purposes of this section, a child shall be considered to have entered foster care on the earlier of the date of the jurisdictional hearing held pursuant to Section 356 or the date that is 60 days after the date on which the child was initially removed from the home of his or her parent or guardian.

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

SEC. 133. Section 16508.1 of the Welfare and Institutions Code, as added by Section 24 of Chapter 287 of the Statutes of 2009, is repealed.

~~16508.1. (a) For every child who is in foster care, or who enters foster care, on or after January 1, 1999, and has been in foster care for 15 of the most recent 22 months, the social worker shall submit to the court a recommendation that the court set a hearing pursuant to Section 366.26 for the purpose of terminating parental rights. The social worker shall concurrently initiate and describe a plan to identify, recruit, process and approve a qualified family for adoption of the child.~~

~~(b) The social worker is not required to submit the recommendation as described in subdivision (a) if any of the following applies:~~

~~(1) The case plan for the child has documented a compelling reason or reasons why it is unlikely that the child will be adopted, as determined by the department when it is acting as an adoption agency or by the licensed adoption agency, and therefore termination of parental rights would not be in the best interest of the child or that one of the conditions set forth in paragraph (1) of subdivision (c) of Section 366.26 applies.~~

~~(2) A hearing under Section 366.26 is already set.~~

~~(3) The court has found at the previous hearing under Section 366.21 that there is a substantial probability that the child will be returned to the child's home within the extended period of time permitted.~~

~~(4) The court has found at the previous hearing under Section 366.21 that reasonable reunification services have not been offered or provided.~~

~~(5) The court has found at each and every hearing at which the court was required to consider reasonable efforts or services that reasonable efforts were not made or that reasonable services were not offered or provided.~~

~~(6) The incarceration or institutionalization of the parent or parents, or the court-ordered participation of the parent or parents in a residential substance abuse treatment program, constitutes a significant factor in the child's placement in foster care for a period of 15 of the most recent 22 months, and termination of parental rights is not in the child's best interests, considering factors such as the age of the child, the degree of parent and child bonding, the length of the sentence, and the nature of the treatment and the nature of the crime or illness.~~

~~(c) A recommendation to the court pursuant to subdivision (a) shall not be made if the social worker documents in the case record a compelling reason why a hearing pursuant to Section 366.26 is not in the best interest of the child, or that reasonable efforts to safely return the child home are continuing consistent with the time period provided for in paragraph (1) of subdivision (g) of Section 366.21.~~

~~(d) Beginning January 1, 1999, the county welfare department shall implement a procedure for reviewing the application of this section to the case plans of all children who have been in foster care for 15 out of the most recent 22 months. The review shall proceed within the following timeframes:~~

~~(1) By July 1, 1999, one-third of the children shall have been reviewed, giving priority to children who have been in foster care the greatest length of time.~~

~~(2) By January 1, 2000, at least two-thirds of the children shall have been reviewed.~~

~~(3) By July 1, 2000, all children shall have been reviewed.~~

~~(e) For purposes of this section, a child shall be considered to have entered foster care on the earlier of the date of the jurisdictional hearing held pursuant to Section 356 or the date that is 60 days after the date on which the child was initially removed from the home of his or her parent or guardian.~~

~~(f) This section shall become operative on January 1, 2014.~~

SEC. 134. Section 16508.3 of the Welfare and Institutions Code is repealed.

~~16508.3. (a) The State Department of Social Services shall establish an advisory committee consisting of representatives of the County Welfare Directors Association, the California Association of Services for Children, the California Children's Lobby, and others as deemed necessary by the department. The advisory committee shall assist the department in the development of therapeutic day services standards, as required by Section 1530.7 of the Health and Safety Code, in order that these programs can be created as an alternative to placement in foster care and as a means of reunifying children with their families from these placements. The department shall develop, with the assistance of the advisory committee, and submit a report to the Legislature no later than October 1, 1991, which shall include, but not be limited to, all of the following:~~

~~(1) The types of children who would be served by therapeutic day services programs.~~

~~(2) The types of therapeutic day services which would be authorized for funding.~~

~~(3) An explanation of how the Level of Care Assessment Instrument, developed under Section 11467, would be used to determine individual need for therapeutic day services.~~

~~(4) An explanation of how therapeutic day services could be integrated into prevention programs established pursuant to Section 16500.5.~~

~~(b) The State Director of Social Services shall report to the Legislature immediately upon making the appointments to the advisory committee required by subdivision (a).~~

~~(c) This section shall become inoperative one year from the date of the report specified in subdivision (b), and, as of the January 1 following the inoperative date, is repealed, unless a later enacted statute, which becomes effective on or before the January 1 following the inoperative date, deletes or extends the dates on which it becomes inoperative and is repealed.~~

SEC. 135. Section 16516.5 of the Welfare and Institutions Code is amended to read:

16516.5. (a) Notwithstanding any other provision of law or regulation, all foster children placed in group homes by county welfare departments or county probation departments shall be visited at least monthly by a county social worker or probation officer. Each visit shall include a private discussion between the

foster child and the county social worker or probation officer. The discussion shall not be held in the presence or immediate vicinity of the group home staff. The contents of the private discussion shall not be disclosed to the group home staff, except that the social worker or probation officer may disclose information under any of the following circumstances:

(1) The social worker or probation officer believes that the foster child may be in danger of harming himself or herself, or others.

(2) The social worker or probation officer believes that disclosure is necessary to meet the needs of the child.

(3) The child consents to disclosure of the information.

~~(b) Notwithstanding~~

(b) (1) Prior to the 2011–12 fiscal year, notwithstanding Section 10101, the state shall pay 100 percent of the nonfederal costs associated with the monthly visitation requirement in subdivision (a) in excess of the minimum semiannual visits required under current regulations.

(2) Notwithstanding subdivision (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.

SEC. 136. Section 16519.5 of the Welfare and Institutions Code is amended to read:

16519.5. (a) The State Department of Social Services, in consultation with county child welfare agencies, foster parent associations, and other interested community parties, shall implement ~~a pilot program to establish~~ a unified, family friendly, and child-centered resource family approval process to replace the existing multiple processes for licensing foster family homes, approving relatives and nonrelative extended family members as foster care providers, and approving adoptive families.

(b) Up to five counties shall be selected to participate on a voluntary basis ~~in the pilot program,~~ *as early implementation counties for the purpose of participating in the initial development of the approval process. Early implementation counties shall be selected* according to criteria developed by the department in consultation with the County Welfare Directors Association. In selecting the ~~pilot~~ *five early implementation* counties, the

department shall promote diversity among the participating counties in terms of size and geographic location.

(c) (1) For the purposes of this section, "resource family" means an individual or couple that a participating county determines to have successfully met both the home approval standards and the permanency assessment criteria adopted pursuant to subdivision (d) necessary for providing care for a related or unrelated child who is under the jurisdiction of the juvenile court, or otherwise in the care of a county child welfare agency or probation department. A resource family shall demonstrate all of the following:

(A) An understanding of the safety, permanence, and well-being needs of children who have been victims of child abuse and neglect, and the capacity and willingness to meet those needs, including the need for protection, and the willingness to make use of support resources offered by the agency, or a support structure in place, or both.

(B) An understanding of children's needs and development, effective parenting skills or knowledge about parenting, and the capacity to act as a reasonable, prudent parent in day-to-day decisionmaking.

(C) An understanding of his or her role as a resource family and the capacity to work cooperatively with the agency and other service providers in implementing the child's case plan.

(D) The financial ability within the household to ensure the stability and financial security of the family.

(E) An ability and willingness to maintain the least restrictive and most familylike environment that serves the needs of the child.

(2) Subsequent to meeting the criteria set forth in this subdivision and designation as a resource family, a resource family shall be considered eligible to provide foster care for related and unrelated children in out-of-home placement, shall be considered approved for adoption or guardianship, and shall not have to undergo any additional approval or licensure as long as the family lives in a county participating in the pilot program.

(3) Resource family assessment and approval means that the applicant meets the standard for home approval, and has successfully completed a permanency assessment. This approval is in lieu of the existing foster care license, relative or nonrelative extended family member approval, and the adoption home study approval.

(4) Approval of a resource family does not guarantee an initial or continued placement of a child with a resource family.

(d) Prior to implementation of this pilot program, the department shall adopt standards pertaining to home approval and permanency assessment of a resource family.

(1) Resource family home approval standards shall include, but not be limited to, all of the following:

(A) (i) Criminal records clearance of all adults residing in the home, pursuant to Section 8712 of the Family Code, utilizing a check of the Child Abuse Central Index (CACI), a check of the Child Welfare Services/Case Management System (CWS/CMS), receipt of a fingerprint-based state criminal offender record information search response, and submission of a fingerprint-based federal criminal offender record information search.

(ii) Consideration of any prior allegations of child abuse or neglect against either the applicant or any other adult residing in the home. An approval may not be granted to applicants whose criminal record indicates a conviction for any of the offenses specified in clause (i) of subparagraph (A) of paragraph (1) of subdivision (g) of Section 1522 of the Health and Safety Code.

(iii) Exemptions from the criminal records clearance requirements set forth in this section may be granted by the director or the pilot county, if that county has been granted permission by the director to issue criminal records exemptions pursuant to Section 316.4, using the exemption criteria currently used for foster care licensing as specified in subdivision (g) of Section 1522 of the Health and Safety Code.

(B) Buildings and grounds, outdoor activity space, and storage requirements set forth in Sections 89387, 89387.1, and 89387.2 of Title 22 of the California Code of Regulations.

(C) In addition to the foregoing requirements, the resource family home approval standards shall also require the following:

(i) That the applicant demonstrate an understanding about the rights of children in care and his or her responsibility to safeguard those rights.

(ii) That the total number of children residing in the home of a resource family shall be no more than the total number of children the resource family can properly care for, regardless of status, and shall not exceed six children, unless exceptional circumstances that are documented in the foster child's case file exist to permit

a resource family to care for more children, including, but not limited to, the need to place siblings together.

(iii) That the applicant understands his or her responsibilities with respect to acting as a reasonable and prudent parent, and maintaining the least restrictive and most familylike environment that serves the needs of the child.

(D) The results of a caregiver risk assessment are consistent with the factors listed in subparagraphs (A) to (D), inclusive, of paragraph (1) of subdivision (c). A caregiver risk assessment shall include, but not be limited to, physical and mental health, alcohol and other substance use and abuse, and family and domestic violence.

(2) The resource family permanency assessment standards shall include, but not be limited to, all of the following:

(A) The applicant shall complete caregiver training.

(B) The applicant shall complete a psychosocial evaluation.

(C) The applicant shall complete any other activities that relate to a resource family's ability to achieve permanency with the child.

(e) (1) A child may be placed with a resource family that has received home approval prior to completion of a permanency assessment only if a compelling reason for the placement exists based on the needs of the child.

(2) The permanency assessment shall be completed within 90 days of the child's placement in the approved home, unless good cause exists based upon the needs of the child.

(3) If additional time is needed to complete the permanency assessment, the county shall document the extenuating circumstances for the delay and generate a timeframe for the completion of the permanency assessment.

(4) The county shall report to the department on a quarterly basis the number of families with a child in an approved home whose permanency assessment goes beyond 90 days and summarize the reasons for these delays.

(5) A child may be placed with a relative, as defined in Section 319, or nonrelative extended family member, as defined in Section 362.7, prior to home approval and completion of the permanency assessment only on an emergency basis if all of the following requirements are met:

(A) Consideration of the results of a criminal records check conducted pursuant to Section 16504.5 of the relative or nonrelative extended family member and of every other adult in the home.

(B) Consideration of the results of the Child Abuse Central Index (CACI) consistent with Section 1522.1 of the Health and Safety Code of the relative or nonrelative extended family member, and of every other adult in the home.

(C) The home and grounds are free of conditions that pose undue risk to the health and safety of the child.

(D) For any placement made pursuant to this paragraph, the county shall initiate the home approval process no later than five business days after the placement, which shall include a face-to-face interview with the resource family applicant and child.

(E) For any placement made pursuant to this paragraph, AFDC-FC funding shall not be available until the home has been approved.

(F) Any child placed under this section shall be afforded all the rights set forth in Section 16001.9.

(f) The State Department of Social Services shall be responsible for all of the following:

(1) Selecting ~~pilot~~ *early implementation* counties, based on criteria established by the department in consultation with the County Welfare Directors Association.

(2) Establishing timeframes for participating counties to submit an implementation plan, enter into terms and conditions for participation in the ~~pilot~~ program, train appropriate staff, and accept applications from resource families.

(3) Entering into terms and conditions for participation in the pilot program by counties.

(4) Administering the ~~pilot~~ program through the issuance of written directives that shall have the same force and effect as regulations. Any directive affecting Article 1 (commencing with Section 700) of Chapter 7 of Title 11 of the California Code of Regulations shall be approved by the Department of Justice. The directives shall be exempt from 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.

(5) Approving and requiring the use of a single standard for resource family home approval and permanency assessment.

(6) Adopting and requiring the use of standardized documentation for the home approval and permanency assessment of resource families.

(7) Requiring counties to monitor resource families including, but not limited to, all of the following:

(A) Investigating complaints of resource families.

(B) Developing and monitoring resource family corrective action plans to correct identified deficiencies and to rescind resource family approval if compliance with corrective action plans is not achieved.

(8) Ongoing oversight and monitoring of county systems and operations including all of the following:

(A) Reviewing the county's implementation of the pilot program.

(B) Reviewing an adequate number of approved resource families in each participating county to ensure that approval standards are being properly applied. The review shall include case file documentation, and may include onsite inspection of individual resource families. The review shall occur on an annual basis, and more frequently if the department becomes aware that a participating county is experiencing a disproportionate number of complaints against individual resource family homes.

(C) Reviewing county reports of serious complaints and incidents involving approved resource families, as determined necessary by the department. The department may conduct an independent review of the complaint or incident and change the findings depending on the results of its investigation.

(D) Investigating unresolved complaints against participating counties.

(E) Requiring corrective action of counties that are not in full compliance with the terms and conditions of the ~~pilot~~ program.

~~(9) Terminating the participation of any county that fails to make corrective action or who otherwise violates the terms and conditions of participation in the pilot program.~~

~~(10)~~

(9) Preparing or having prepared ~~within 180 days after the conclusion of the pilot program~~, and submitting to the Legislature, a report on the results of the ~~pilot~~ *initial phase of implementation of the* program. The report shall include all of the following:

(A) An analysis, utilizing available data, of state and federal data indicators related to the length of time to permanency including reunification, guardianship and adoption, child safety factors, and placement stability.

(B) An analysis of resource family recruitment and retention elements, including resource family satisfaction with approval processes and changes regarding the population of available resource families.

(C) An analysis of cost, utilizing available data, including funding sources.

(D) An analysis of regulatory or statutory barriers to implementing the pilot program on a statewide basis.

(g) Counties participating in the pilot program shall be responsible for all of the following:

(1) Submitting an implementation plan, entering into terms and conditions for participation in the ~~pilot~~ program, consulting with the county probation department in the development of the implementation plan, training appropriate staff, and accepting applications from resource families within the timeframes established by the department.

(2) Complying with the written directives pursuant to paragraph (4) of subdivision (f).

(3) Implementing the requirements for resource family home approval and permanency assessment and utilizing standardized documentation established by the department.

(4) Ensuring staff have the education and experience necessary to complete the home approval and permanency assessment competently.

(5) Approving and denying resource family applications, including all of the following:

(A) Rescinding home approvals and resource family approvals where appropriate, consistent with the established standard.

(B) Providing disapproved resource families requesting review of that decision due process by conducting county grievance reviews pursuant to the department's regulations.

(C) Notifying the department of any decisions denying a resource family's application or rescinding the approval of a resource family.

(6) Updating resource family approval annually.

(7) Monitoring resource families through all of the following:

(A) Ensuring that social workers who identify a condition in the home that may not meet the approval standards set forth in subdivision (d) while in the course of a routine visit to children placed with a resource family take appropriate action as needed.

(B) Requiring resource families to comply with corrective action plans as necessary to correct identified deficiencies. If corrective action is not completed as specified in the plan, the county may rescind the resource family approval.

(C) Requiring resource families to report to the county child welfare agency any incidents consistent with the reporting requirements for licensed foster family homes.

(8) Investigating all complaints against a resource family and taking action as necessary. This shall include investigating any incidents reported about a resource family indicating that the approval standard is not being maintained.

(A) The child's social worker shall not conduct the formal investigation into the complaint received concerning a family providing services under the standards required by subdivision (d). To the extent that adequate resources are available, complaints shall be investigated by a worker who did not initially perform the home approval or permanency assessment.

(B) Upon conclusion of the complaint investigation, the final disposition shall be reviewed and approved by a supervising staff member.

(C) The department shall be notified of any serious incidents or serious complaints or any incident that falls within the definition of Section 11165.5 of the Penal Code. If those incidents or complaints result in an investigation, the department shall also be notified as to the status and disposition of that investigation.

(9) Performing corrective action as required by the department.

(10) Assessing county performance in related areas of the California Child and Family Services Review System, and remedying problems identified.

(11) Submitting information and data that the department determines is necessary to study, monitor, and prepare the report specified in paragraph (10) of subdivision (f).

(h) Approved relatives and nonrelated extended family members, licensed foster family homes, or approved adoptive homes that have completed the license or approval process prior to full implementation of the ~~pilot~~ program shall not be considered part

of the ~~pilot~~ program. The otherwise applicable assessment and oversight processes shall continue to be administered for families and facilities not included in the ~~pilot~~ program.

~~(i) Upon completion of the pilot program, the status of the resource family's approval shall continue in full force and effect, and the resource family shall be deemed approved for licensing, relative and nonrelated extended family member approval, guardianship, and adoption purposes.~~

~~(j)~~

(i) The department may waive regulations that pose a barrier to implementation and operation of this ~~pilot~~ program. The waiver of any regulations by the department pursuant to this section shall apply to only those counties participating in the ~~pilot~~ program and only for the duration of the ~~pilot~~ program.

~~(k)~~

(j) Resource families approved under ~~this pilot~~ *initial implementation of the* program, who move within a participating county or who move to another ~~pilot~~ *early implementation* program county, shall retain their resource family status if the new building and grounds, outdoor activity areas, and storage areas meet home approval standards. The State Department of Social Services or pilot county may allow a ~~pilot~~ program-affiliated individual to transfer his or her subsequent arrest notification if the individual moves from one ~~pilot~~ *early implementation* county to another ~~pilot~~ *early implementation* county, as specified in subdivision (h) of Section 1522 of the Health and Safety Code.

~~(l)~~

(k) (1) A resource family approved under this ~~pilot~~ program that moves to a nonparticipating ~~pilot program~~ county shall lose its status as a resource family. The new county of residence shall deem the family approved for licensing, relative and nonrelated extended family member approval, guardianship, and adoption purposes, under the following conditions:

(A) The new building and grounds, outdoor activity areas, and storage areas meet applicable standards, unless the family is subject to a corrective action plan.

(B) There has been a criminal records clearance of all adults residing in the home and exemptions granted, using the exemption criteria currently used for foster care licensing, as specified in subdivision (g) of Section 1522 of the Health and Safety Code.

(2) A program-affiliated individual who moves to a ~~nonpilot~~ *nonparticipating* county may not transfer his or her subsequent arrest notification from a ~~pilot~~ *participating* county to the ~~nonpilot~~ *nonparticipating* county.

~~(m)~~

(l) Implementation of the ~~pilot~~ program shall be contingent upon the continued availability of federal Social Security Act Title IV-E (42 U.S.C. Sec. 670) funds for costs associated with placement of children with resource families assessed and approved under the program.

~~(n)~~

(m) Notwithstanding Section 11402, a child placed with a resource family shall be eligible for AFDC-FC payments. A resource family shall be paid an AFDC-FC rate pursuant to Sections 11460 and 11461. Sharing ratios for nonfederal expenditures for all costs associated with activities related to the approval of relatives and nonrelated extended family members shall be in accordance with Section 10101.

~~(o)~~

(n) The Department of Justice shall charge fees sufficient to cover the cost of initial or subsequent criminal offender record information and Child Abuse Central Index searches, processing, or responses, as specified in this section.

~~(p)~~

(o) Approved resource families under this ~~pilot~~ program shall be exempt from all of the following:

(1) Licensure requirements set forth under the Community Care Facilities Act, commencing with Section 1500 of the Health and Safety Code and all regulations promulgated thereto.

(2) Relative and nonrelative extended family member approval requirements set forth under Sections 309, 361.4, and 362.7, and all regulations promulgated thereto.

(3) Adoptions approval and reporting requirements set forth under Section 8712 of the Family Code, and all regulations promulgated thereto.

~~(q) The pilot program~~

(p) Early implementation counties shall be authorized to continue through the end of the 2010–11 fiscal year, or through the end of the ~~fifth~~ *third* full fiscal year following the date that ~~funds are made available for its~~ *counties commence*

implementation, whichever of these dates is later*, at which time the program shall be authorized in all counties*.

~~(r)~~

(q) Notwithstanding subdivision ~~(q), implementation of this section is suspended until January 1, 2012~~ *(p), this section shall not be implemented until January 1, 2013*.

SEC. 137. 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 ~~county~~ *licensed* transitional housing placement ~~programs~~ *providers* that provide supervised *transitional* housing ~~services~~ to ~~persons~~ *foster children* at least 16 years of age and not more than 18 years of age, ~~except~~ *and* nonminor dependents, as ~~described~~ *defined* in subdivision (v) of Section ~~11400, when it is in their best interest to remain in the facility in order to complete high school or its equivalent, or to finish the high school year prior to their 19th birthday, as provided for in paragraph (1) of subdivision (a) of Section 11403.2, and who meet all of the following conditions:~~ *11400*.

~~(1) Meet the requirements of Section 11401.~~

~~(2) Are in out-of-home placement under the supervision of the county child welfare services department or the county probation department.~~

~~(3) Are participating in, or have successfully completed an independent living program.~~

~~(b) A transitional housing program may also serve any person under 21 years of age who is receiving aid under Section 11403.1.~~

~~(c)~~

(b) The department may structure statewide implementation of transitional housing placement ~~programs~~ *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 ~~placement program services~~ shall include any of the following:

(1) Programs in which one or more participants in the program live in an apartment, single-family dwelling, or condominium with an adult employee of the provider*, or host family home*.

(2) Programs in which a participant lives independently in an apartment, single-family dwelling, or condominium rented or leased by the provider located 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 rented or leased by a provider under the supervision of the provider if the State Department of Social Services provides approval. *Effective October 1, 2012, the housing model described in this paragraph shall be available only for the placement of nonminor dependents.*

(e) The regulations shall be age-appropriate and recognize that youth who are about to ~~emancipate~~ *exit* from the foster care system should be subject to fewer restrictions than those who are ~~younger~~ *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 ~~emancipated~~ *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 ~~self-sufficiency~~ *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.

SEC. 138. 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 ~~county department of social services or the county probation department that the facility program provides all of the following:~~ *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:

~~(a) (1)~~

(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.

~~(b)~~

(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.

~~(c)~~

(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.

~~(d)~~

(5) A detailed plan for monitoring the placement of persons under the licensee's care.

~~(e)~~

(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.

~~(f)~~

(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.

~~(g)~~

(8) A system for payment for utilities, telephone, and rent.

~~(h)~~

(9) Policies regarding all of the following:

~~(1)~~

(A) Education requirements.

~~(2)~~

(B) Work expectations.

~~(3)~~

(C) Savings requirements.

~~(4)~~

(D) Personal safety.

~~(5)~~

(E) Visitors, including, but not limited to, visitation by the placement auditor pursuant to ~~subdivision (d)~~ *paragraph (5)*.

~~(6)~~

(F) Emergencies.

~~(7)~~

(G) Medical problems.

~~(8)~~

(H) Disciplinary measures.

~~(9)~~

(I) Child care.

~~(10)~~

(J) Pregnancy.

~~(11)~~

(K) Curfew.

~~(12)~~

(L) Apartment cleanliness.

~~(13)~~

(M) Use of utilities and telephone.

~~(14)~~

(N) Budgeting.

~~(15)~~

(O) Care of furnishings.

~~(16)~~

(P) Decorating of apartments.

~~(17)~~

(Q) Cars.

~~(18)~~

(R) Lending or borrowing money.

~~(19)~~

(S) Unauthorized purchases.

~~(20)~~

(T) Dating.

~~(21)~~

(U) Grounds for termination that may include, but shall not be limited to, illegal activities or harboring runaways.

~~(i)~~

(10) Apartment furnishings, and a policy on disposition of the furnishings when the participant completes the program.

~~(j)~~

(11) Evaluation of the participant's progress in the program and reporting to the independent living program and to the department regarding that progress.

~~(k)~~

(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.

(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.

SEC. 139. Section 16522.2 of the Welfare and Institutions Code is amended to read:

16522.2. ~~Persons may participate in the supervised~~ *(a) Eligible persons may receive* transitional housing ~~placement programs~~ only with the permission of both the independent living program of the county in which the program is located and the county department of social services or the county probation department that has custody of the person.

(b) This section does not apply to a nonminor dependent, as defined in subdivision (v) of Section 11400.

SEC. 140. Section 16522.5 of the Welfare and Institutions Code is amended to read:

16522.5. Prior to ~~approval of supervised~~ *certification of a* transitional housing placement ~~programs in~~ *provider by* a county, the department shall approve a plan submitted by the county's independent living program that includes assurances that the independent living program shall participate actively in the screening of candidates for this program and shall assist the licensed agency in the supervision of clients participating in the

program. *This section does not apply to nonminor dependents, as defined in subdivision (v) of Section 11400.*

SEC. 141. Section 16525.10 of the Welfare and Institutions Code is amended to read:

16525.10. (a) In order to promote the development of placements that will allow children to move into more homelike environments, ~~the department shall~~ *counties may* establish *an* "Options for Recovery" ~~as a permanent~~ program. ~~This program shall be available to any county that requests participation pursuant to procedures established by the department to the extent funds are made available through the Budget Act.~~

(b) ~~Notwithstanding~~ *Prior to the 2011–12 fiscal year, notwithstanding* any other provision of law, the "Options for Recovery" services shall be funded with a ~~30-percent~~ *30 percent* nonfederal county share consistent with the normal sharing ratio for child welfare services. This county share may be provided with county general funds, or other sources of funds which are unrestricted and are eligible for this use as provided by the funding source. The source of the county share shall meet all applicable state and federal requirements and provide counties with maximum flexibility.

(c) Notwithstanding subdivision (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.

SEC. 142. Section 16525.25 of the Welfare and Institutions Code is amended to read:

16525.25. The ~~department~~ *counties participating pursuant to this section* shall do both of the following:

(a) ~~Develop necessary procedures and standardized programs~~ *Maintain existing programs and standards* for a specialized foster home recruitment and training project that will establish foster care placements to care for eligible children.

(b) Coordinate sources of funding and services available to eligible children in order to maximize the social services provided to these children and avoid duplication of programs and funding.

SEC. 143. Section 16605 of the Welfare and Institutions Code is amended to read:

16605. (a) ~~The department shall, subject to the availability of funds appropriated therefor, conduct a Kinship Support Services Program that is a grants-in-aid program providing startup and expansion funds for local kinship support services programs that provide~~ *The Kinship Support Services Program provides* community-based family support services to relative caregivers and the children placed in their homes by the juvenile court or who are at risk of dependency or delinquency. Relatives with children in voluntary placements may access services, at the discretion of the county.

~~(b) The Kinship Support Services Program shall create a public-private partnership. A combination of federal, state, county, and private sector resources shall finance the establishment and ongoing operation of the program.~~

~~(c)~~

(b) The counties that elect to participate in the ~~program~~ *Kinship Support Services Program* shall meet the following conditions and requirements:

(1) Have a demonstrated capacity for collaboration and interagency coordination.

(2) Have a viable plan for ongoing financial support of the local kinship support services program.

(3) Utilize relative caregivers as employees of the program.

(4) Have strong and viable public or private agencies to operate the program.

~~(5) Provide to the department the number of relative caretakers residing in the county, and the projected number of relative caretakers to be served.~~

~~(6)~~

(5) Describe how the county will develop and maintain the necessary community supports.

~~(7) Outline the county's outcome improvement goals for the program. These goals shall include, but shall not be limited to, moving children out of foster care and into the Kinship Guardian Assistance Payment Program (Kin-GAP), or adoption, placement stability, and preventing children from entering foster care. The county shall also agree to measure and report data regarding the Kinship Support Services Program, as required by the department.~~

~~(d)~~

(c) The Kinship Support Services Program shall demonstrate the use of supportive services provided to relative caregivers and children placed in their homes using a community-based kinship support services model. This model shall provide services to relative caregivers that are aimed at helping to ensure permanent family kinship placements for children who have been placed with them by the juvenile court, and to provide family support services that will eliminate the need for juvenile court jurisdiction and the provision of services by the county welfare department.

~~(e)~~

(d) The program shall provide family support services appropriate for the target populations. These services may include, but are not limited to, the following:

(1) Assessment and case management.

(2) Social services referral and intervention aimed at maintaining the kinship family unit, for example, housing, homemaker services, respite care, legal services, and day care.

(3) Transportation for medical care and educational and recreational activities.

(4) Information and referral services.

(5) Individual and group counseling in the area of parent-child relationships and group conflict.

(6) Counseling and referral services aimed at promoting permanency, including kinship adoption and guardianship.

(7) Tutoring and mentoring.

~~(f)~~

(e) The Edgewood Center for Children and Families in San Francisco or any other appropriate agency or individual approved by the department in consultation with ~~the Statewide Kinship Advisory Committee~~ *participating counties* shall provide technical assistance to the Kinship Support Services Program and shall facilitate the sharing of information and resources among the ~~local~~ programs.

(f) 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.

SEC. 144. Section 18250 of the Welfare and Institutions Code is amended to read:

18250. (a) It is the intent of the Legislature that all counties be authorized to provide children with service alternatives to group home care through the development of expanded family based services programs. These programs shall include individualized or "wraparound" services, where services are wrapped around a child living with his or her birth parent, relative, nonrelative extended family member as defined in Section 362.7, adoptive parent, licensed or certified foster parent, or guardian. The wraparound services developed under this section shall build on the strengths of each eligible child and family and be tailored to address their unique and changing needs.

(b) It is further the intent of the Legislature that the county wraparound services program include the following elements:

~~(1) Making available to the county the state share of nonfederal reimbursement for group home placement, minus the state share, if any, of any concurrent out-of-home placement costs, for children eligible under this chapter, for the purpose of allowing the county to develop family based service alternatives.~~

~~(2)~~

(1) Enabling the county to access all possible sources of federal funds for the purpose of developing family based service alternatives.

~~(3)~~

(2) Encouraging collaboration among persons and entities including, but not limited to, parents, county welfare departments, county mental health departments, county probation departments, county health departments, special education local planning agencies, school districts, and private service providers for the purpose of planning and providing individualized services for children and their birth or substitute families.

~~(4)~~

(3) Ensuring local community participation in the development and implementation of wraparound services by county placing agencies and service providers.

~~(5)~~

(4) Preserving and using the service resources and expertise of nonprofit providers to develop family based and community-based service alternatives.

(c) 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.

SEC. 145. Section 18254 of the Welfare and Institutions Code is amended to read:

18254. (a) ~~Reimbursement rates~~ *Rates* for wraparound services, under the wraparound services program, shall be based on the following factors:

(1) The average cost of rate classification 10 to 11 in each county, minus the cost of any concurrent out-of-home placement, for children who are or would be placed in a rate level 10 or 11 group home.

(2) The average cost of rate classification 12 to 14 in each county, minus the cost of any concurrent out-of-home placement, for children who are or would be placed in a rate level 12 to 14 group home.

~~(b) The annual maximum limit on funding available for the wraparound services program authorized by this chapter shall be based on the average cost, determined pursuant to subdivision (a), for the number of service allocation slots assigned to each county.~~

~~(c) The~~

(b) (1) Prior to the 2011–12 fiscal year, the department shall reimburse each county, for the purpose of providing intensive wraparound services, up to 100 percent of the state share of nonfederal funds, to be matched by each county's share of cost as established by law, and to the extent permitted by federal law, up to 100 percent of the federal funds allocated for group home placements of eligible children, at the rate authorized pursuant to subdivision (a).

(2) 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.

~~(d) State~~

(c) County, and~~,~~ to the extent permitted by federal law, federal, foster care funds shall remain with the administrative authority of the county ~~welfare department~~, which may enter into an interagency agreement to transfer those funds, and shall be used to provide intensive wraparound services.

~~(c) General Fund costs~~

(d) Costs for the provision of benefits to eligible children, at rates authorized by subdivision (a), through the wraparound services program authorized by this chapter, shall not exceed the costs which would otherwise have been incurred had the eligible children been placed in a group home.

SEC. 146. Section 18255 of the Welfare and Institutions Code is repealed.

~~18255. Any county that applies to, and is granted approval, by the department may implement a wraparound services program. The number of service allocation slots assigned to each county shall be determined by each county and approved by the department.~~

SEC. 147. Section 18257 of the Welfare and Institutions Code is amended to read:

18257. ~~(a)~~ The State Department of Social Services shall seek applicable federal approval to make the maximum number of children being served through such programs eligible for federal financial participation and amend any applicable state regulations to the extent necessary to eliminate any limitations on the numbers of children who can participate in these programs.

~~(b) Funds from the Mental Health Services Fund shall be made available to the State Department of Social Services for technical assistance to counties in establishing and administering projects. Funding shall include reasonable and necessary administrative costs in establishing and administering a project pursuant to this chapter and shall be sufficient to create an incentive for all counties to seek to establish programs pursuant to this chapter.~~

SEC. 148. Section 18358.30 of the Welfare and Institutions Code is amended to read:

18358.30. (a) Rates for foster family agency programs participating under this chapter shall be exempt from the current AFDC-FC foster family agency ratesetting system.

(b) Rates for foster family agency programs participating under this chapter shall be set according to the appropriate service and rate level based on the level of services provided to the eligible child and the certified foster family. For an eligible child placed from a group home program, the service and rate level shall not exceed the rate paid for group home placement. For an eligible child assessed by the county interagency review team or county

placing agency as at imminent risk of group home placement or psychiatric hospitalization, the appropriate service and rate level for the child shall be determined by the interagency review team or county placing agency at time of placement. In all of the service and rate levels, the foster family agency programs shall:

(1) Provide social work services with average caseloads not to exceed eight children per worker, except that social worker average caseloads for children in Service and Rate Level E shall not exceed 12 children per worker.

(2) Pay an amount not less than ~~one thousand two hundred dollars ($1,200)~~ *two thousand one hundred dollars ($2,100)* per child per month to the certified foster parent or parents.

(3) Perform activities necessary for the administration of the programs, including, but not limited to, training, recruitment, certification, and monitoring of the certified foster parents.

(4) (A) (i) Provide a minimum average range of service per month for children in each service and rate level in a participating foster family agency, represented by paid employee hours incurred by the participating foster family agency, by the in-home support counselor to the eligible child and the certified foster parents depending on the needs of the child and according to the following schedule:

Service and Rate Level	In-Home Support Counselor Hours Per Month
A	98-114 hours
B	81-97 hours
C	64-80 hours
D	47-63 hours

(ii) Children placed at Service and Rate Level E shall receive behavior deescalation and other support services on a flexible, as needed, basis from an in-home support counselor. The foster family agency shall provide one full-time in-home support counselor for every 20 children placed at this level.

(B) (i) For the interim period beginning July 1, 2012, through June 30, 2015, inclusive, only the following modified service and rate levels to support modified in-home support counselor hours per month shall apply:

Service and Rate Level	*In-Home Support Counselor Hours Per Month*
Level I	*81-114 hours*
Level II	*47-80 hours*
Level III	*Less than 47 hours*

(ii) Children placed at Service and Rate Level III shall receive behavior deescalation and other support services on a flexible, as needed, basis from an in-home support counselor. The foster family agency shall provide one full-time in-home support counselor for every 20 children placed at this level.

~~(B)~~

(C) When the interagency review team or county placing agency and the foster family agency agree that alternative services are in the best interests of the child, the foster family agency may provide or arrange for services and supports allowable under California's foster care program in lieu of in-home support services required by ~~subparagraph~~ *subparagraphs* (A) *and (B)*. These services and supports may include, but need not be limited to, activities in the Multidimensional Treatment Foster Care (MTFC) program.

(c) The department or placing county, or both, may review the level of services provided by the foster family agency program. If the level of services actually provided are less than those required by subdivision (b) for the child's service and rate level, the rate shall be adjusted to reflect the level of service actually provided, and an overpayment may be established and recovered by the department.

(d) (1) On and after July 1, 1998, the standard rate schedule of service and rate levels shall be:

Service and Rate Level	Fiscal Year 1998-99 Standard Rate
A	$3,957
B	$3,628
C	$3,290
D	$2,970
E	$2,639

(2) For the interim period beginning July 1, 2012, through June 30, 2015, inclusive, only the following modified service and rate levels to support the modified standard rate schedule shall apply:

Service and Rate Level	*Standard Rate*
Level I	*$5,581*
Level II	*$4,798*
Level III	*$4,034*

~~(2)~~

(3) (A) On and after July 1, 1999, the standardized schedule of rates shall be adjusted by an amount equal to the California Necessities Index computed pursuant to Section 11453, rounded to the nearest dollar. The resultant amounts shall constitute the new standardized rate schedule, subject to further adjustment pursuant to subparagraph (B), for foster family agency programs participating under this chapter.

(B) In addition to the adjustment in subparagraph (A), commencing January 1, 2000, the standardized schedule of rates shall be increased by 2.36 percent, rounded to the nearest dollar. The resultant amounts shall constitute the new standardized rate schedule for foster family agency programs participating under this chapter.

~~(3)~~

(4) (A) Beginning with the 2000–01 fiscal year, the standardized schedule of rates shall be adjusted annually by an amount equal to the California Necessities Index computed pursuant to Section 11453, subject to the availability of funds. The resultant amounts, rounded to the nearest dollar, shall constitute the new standard rate schedule for foster family agency programs participating under this chapter.

(B) Effective October 1, 2009, the rates identified in this subdivision shall be reduced by 10 percent. The resulting amounts shall constitute the new standardized schedule of rates.

(5) Notwithstanding paragraphs (3) and (4), the rate identified in paragraph (2) of subdivision (b) shall be adjusted on July 1,

2013, and again on July 1, 2014, by an amount equal to the California Necessities Index computed pursuant to Section 11453.

(e) *(1)* Rates for foster family agency programs participating under ~~this chapter~~ *paragraph (1) of subdivision (d)* shall not exceed Service and Rate Level A at any time during an eligible child's placement. An eligible child may be initially placed in a participating intensive foster care program at any one of the five Service and Rate Levels A to E, inclusive, and thereafter placed at any level, either higher or lower, not to exceed a total of six months at any level other than Service and Rate Level E, unless it is determined to be in the best interests of the child by the child's county interagency review team or county placing agency and the child's certified foster parents. The child's county interagency placement review team or county placement agency may, through a formal review of the child's placement, extend the placement of an eligible child in a service and rate level higher than Service and Rate Level E for additional periods of up to six months each.

(2) Rates for foster family agency programs participating under paragraph (2) of subdivision (d) shall not exceed Service and Rate Level I at any time during an eligible child's placement. An eligible child may be initially placed in a participating intensive foster care program at any one of the three Service and Rate Levels I to III, inclusive, and thereafter placed at any level, either higher or lower, not to exceed a total of six months at any level other than Service and Rate Level III, unless it is determined to be in the best interests of the child by the child's county interagency review team or county placing agency, foster family agency, and the child's certified foster parents. The child's county interagency placement review team or county placement agency, through a formal review of the child's placement, may extend the placement of an eligible child in a service and rate level higher than Service and Rate Level III for additional periods of up to six months each.

(f) It is the intent of the Legislature that the rate paid to participating foster family agency programs shall decrease as the child's need for services from the foster family agency decreases. The foster family agency shall notify the placing county and the department of the reduced services and the pilot classification model, and the rate shall be reduced accordingly.

(g) It is the intent of the Legislature to prohibit any duplication of public funding. Therefore, social worker services, payments to

certified foster parents, administrative activities, and the services of in-home support counselors that are funded by another public source shall not be counted in determining whether the foster family agency program has met its obligations to provide the items listed in paragraphs (1), (2), (3), and (4) of subdivision (b). The department shall work with other potentially affected state departments to ensure that duplication of payment or services does not occur.

(h) It is the intent of the Legislature that the State Department of Social Services and the State Department of Health Care Services, in collaboration with county placing agencies and ITFC providers and other stakeholders, develop and implement an integrated system that provides for the appropriate level of placement and care, support services, and mental health treatment services to foster children served in these programs.

(i) 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.

SEC. 149. Section 18960 of the Welfare and Institutions Code is amended to read:

18960. (a) ~~(1)~~ It is the intent of the Legislature that child abuse and neglect prevention and intervention programs be encouraged by the funding of agencies addressing needs of children at high risk of abuse or neglect and their families.

~~(2) Funding for this program is subject to appropriation in the annual Budget Act.~~

(b) All funds expended by a county for activities under this section shall be expended by the county in a manner that will maximize eligibility for federal financial participation.

~~(3)~~

(c) Priority shall be given to prevention programs through nonprofit agencies, including, where appropriate, programs that identify and provide services to isolated families, particularly those with children five years of age or younger, high quality home visiting programs based on research-based models of best practice, and services to child victims of crime.

~~(b) (1) Projects funded in Calaveras, El Dorado, Humboldt, Lassen, Modoc, Plumas, San Luis Obispo, Siskiyou, Sutter,~~

~~Tehama, Trinity, and Yuba Counties, with the exception of statewide innovative projects, shall be funded by the State Department of Social Services for the purposes established in this article until June 30, 1993.~~

~~(2) Beginning in the 1993–94 fiscal year and in subsequent years, projects funded in the counties set forth in paragraph (1) shall be selected by the competitive process described in Section 18961. Projects funded in all other counties in the 1992–93 and subsequent fiscal years shall be selected by the competitive process.~~

SEC. 150. Section 18961 of the Welfare and Institutions Code is amended to read:

18961. (a) Projects *and services* funded pursuant to this article shall be selected ~~through a competitive process, which shall include all of~~ *using* the following criteria:

(1) Priority shall be given to private, nonprofit agencies with programs that serve the needs of children at risk of abuse or neglect and that have demonstrated effectiveness in prevention or intervention.

(2) Agencies shall be eligible for funding provided that evidence is submitted ~~as part of the application to demonstrate broad-based community support and~~ that *the* proposed services are not duplicated in the community, are based on needs of children at risk, and are supported by a local public agency, including, but not limited to, one of the following:

(A) The county welfare department.

(B) A public law enforcement agency.

(C) The county probation department.

(D) The county board of supervisors.

(E) The county public health department.

(F) The county mental health department.

(G) The school district.

(3) Services provided shall be culturally and linguistically appropriate to the populations served.

(4) Services may include, but need not be limited to, ~~family counseling, day care, respite care, teaching and demonstrating homemakers, family workers, transportation, temporary in-home caretakers, psychiatric evaluations,~~ *day care, respite services, transportation, mental* health services, ~~multidisciplinary team services, and special law enforcement services.~~ *services provided through home visiting programs, parent education and support*

programs, domestic violence services, disability services, early developmental screening and assessment, and counseling services.

(5) Applicant agencies shall demonstrate the existence of a 10 percent cash or in-kind match~~, other than funding provided by the State Department of Social Services,~~ that will support the goals of child abuse and neglect prevention and intervention.

(6) Funding shall be used to supplement, but not supplant, child welfare services authorized pursuant to Chapter 5 (commencing with Section 16500) of Part 4.

(7) Training and technical assistance shall be provided by private, nonprofit agencies to those agencies funded to provide services under this article. Training and technical assistance shall encompass all of the following:

(A) Multidisciplinary approaches to child abuse prevention, intervention, and treatment.

(B) Facilitation of local services networks.

(C) Establishment and support of child abuse councils.

(D) Dissemination of information addressing issues of child abuse among multicultural and special needs populations.

(8) Priority for services shall be given to children who are at high risk, including children who are being served by the county welfare departments for being abused and neglected and other children who are referred for services by legal, medical, or social services agencies.

(9) Service to minority populations shall be reflected in the funding of projects.

(10) Projects *and services* shall clearly be related to the needs of children, especially those 14 years of age and under.

(b) In a county that has established a multidisciplinary council, the council shall be utilized to provide recommendations to the board of supervisors for the funding processes and priorities.

(c) Each county shall monitor the projects *and services* it funds. ~~The Office of Child Abuse Prevention shall monitor innovative and training and technical assistance projects funded pursuant to this article.~~

~~(d) The State Department of Social Services shall allocate funds appropriated pursuant to this article, based upon criteria that reflect the reported number of abused and neglected children in a county, such as police reports, including reports to the Criminal Identification and Information Branch of the Department of Justice,~~

~~reports made to child protective services, or other public reports that indicate a need for services. Rural counties shall be provided a base allocation of fifty thousand dollars ($50,000) per county. For purposes of this subdivision, "rural county" means a county with a population of less than 125,000.~~

~~(e) The State Department of Social Services shall develop a reporting instrument relevant to both urban and rural areas, that shall reflect recognized potential abuse factors, such as unemployment levels, by percentage, drug and alcohol abuse, and teenage birth rates. This instrument shall be approved after consultation with the appropriate state level advisory committees, legislative committees, and private nonprofit agencies operating statewide in the area of child abuse and neglect prevention. This instrument shall be used to develop future reports regarding the potential for child abuse and neglect.~~

(d) 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.

SEC. 151. Section 18962 of the Welfare and Institutions Code is amended to read:

~~18962. (a) (1) The State Department of Social Services shall notify counties of allocations of funds for services provided pursuant to Section 18961 no later than 30 days after the effective date of this section, and annually thereafter.~~

~~(2) The board of supervisors of each county shall notify the State Department of Social Services of its intent to contract or not contract with public or private nonprofit agencies to provide services in accordance with this article within 60 days of notification by the department of the county's allocation. If a board chooses not to contract for those services, it may subcontract with other counties to provide administrative oversight of the project, subject to the same 60-day notification requirement.~~

~~(3)~~

18962. (a) If a board of supervisors chooses not to contract or subcontract for the provision of services, the funds allocated for that county shall revert to the State Children's Trust Fund established under Section 18969 and shall be administered in accordance with the provisions of law relating to the fund.

(b) The ~~board of supervisors of each county~~ *county child welfare agency* shall provide to the Office of Child Abuse Prevention, no later than October 1 of each ~~year a list of projects funded in the prior fiscal year and the amounts funded to, and expended by, each of the listed projects. The report shall include a description of services rendered, populations served, and results of service~~ *year, an annual expenditure report to include funds expended, populations served, and other information deemed necessary based on a process to be developed by the department, in consultation with counties*.

SEC. 152. Section 18987.7 of the Welfare and Institutions Code is amended to read:

18987.7. (a) The State Department of Social Services shall convene a workgroup of public and private nonprofit stakeholders that shall develop a plan for transforming the current system of group care for foster children or youth, and for children with serious emotional disorders (SED), into a system of residentially based services. The stakeholders may include, but not be limited to, representatives of the department and of the State Department of Mental Health, the State Department of Education, the State Department of Alcohol and Drug Programs, and the Department of Corrections and Rehabilitation; county child welfare, probation, mental health, and alcohol and drug programs; local education authorities; current and former foster youth, parents of foster children or youth, and children or youth with SED; private nonprofit agencies operating group homes; children's advocates; and other interested parties.

(b) The plan developed pursuant to this chapter shall utilize the reports delivered to the Legislature pursuant to Section 75 of Chapter 311 of the Statutes of 1998 by the Steering Committee for the Reexamination of the Role of Group Care in a Family-Based System of Care in June 2001 and August 2002, and the "Framework for a New System for Residentially-Based Services in California" published in March 2006.

(c) In the development, implementation, and subsequent revisions of the plan developed pursuant to subdivision (a), the knowledge and experience gained by counties and private nonprofit agencies through the operation of their residentially based services programs created under voluntary agreements made pursuant to Section 18987.72, including, but not limited to, the results of

evaluations prepared pursuant to paragraph (3) of subdivision (c) of Section 18987.72 shall be utilized.

~~(d) By July 1, 2014, the department shall provide a copy of the plan developed by the workgroup pursuant to subdivision (a) to the Legislature. The plan shall include, in addition to other requirements set forth in this chapter, any statutory revisions necessary for its implementation.~~

(d) The workgroup described in subdivision (a) shall be the workgroup described in Section 11461.2. The responsibilities described in subdivisions (b) and (c) shall be assumed by the workgroup and the recommendations shall be submitted as set forth in subdivision (f) of Section 11461.2.

SEC. 153. Section 18987.72 of the Welfare and Institutions Code is amended to read:

18987.72. (a) In order to obtain knowledge and experience with which to inform the process of developing and implementing the plan for residentially based services, required by Section 18987.7, the department shall encourage counties and private nonprofit agencies to develop voluntary agreements to test alternative program design and funding models for transforming existing group home programs into residentially based services programs in order to meet the diverse needs of children or youth and families in the child welfare, juvenile justice, and mental health systems.

(b) (1) With the approval of the department, any counties participating in the federal Title IV-E waiver capped allocation demonstration project pursuant to Section 18260, at their option, and two other counties may enter into and implement voluntary agreements with private nonprofit agencies to transform all or part of an existing group home program into a residentially based services program.

(2) If one or more counties participating in the federal Title IV-E waiver capped allocation demonstration project opts not to enter into a voluntary agreement pursuant to this chapter, the department may select one or more nonwaiver counties. The department may approve up to four counties to participate in the voluntary agreements pursuant to this section.

(3) The department shall select participating counties, based on letters of interest submitted to the department from counties, in

consultation with the California Alliance of Child and Family Services and the County Welfare Directors Association.

(c) Voluntary agreements by counties and nonprofit agencies shall satisfy all of the following requirements:

(1) Incorporate and address all of the components and elements for residentially based services described in the "Framework for a New System for Residentially-Based Services in California."

(2) Reflect active collaboration among the private nonprofit agency that will operate the residentially based services program and county departments of social services, mental health, or juvenile justice, alcohol and drug programs, county offices of education, or other public entities, as appropriate, to ensure that children, youth, and families receive the services and support necessary to meet their needs.

(3) Provide for an annual evaluation report, to be prepared jointly by the county and the private nonprofit agency. The evaluation report shall include analyses of the outcomes for children and youth, including achievement of permanency, average lengths of stay, and rates of entry and reentry into group care. The evaluation report shall also include analyses of the involvement of children or youth and their families, client satisfaction, the use of the program by the county, the operation of the program by the private nonprofit agency, payments made to the private nonprofit agency by the county, actual costs incurred by the nonprofit agency for the operation of the program, and the impact of the program on state and county AFDC-FC program costs. The county shall send a copy of each annual evaluation report to the director, and the director shall make these reports available to the Legislature upon request.

(4) Permit amendments, modifications, and extensions of the agreement to be made, with the mutual consent of both parties and with approval of the department, based on the evaluations described in paragraph (3), and on the experience and information acquired from the implementation and the ongoing operation of the program.

(5) Be consistent with the county's system improvement plan developed pursuant to the California Child Welfare Outcomes and Accountability System.

(d) (1) Upon a county's request, the director may waive child welfare regulations regarding the role of counties in conjunction with private nonprofit agencies operating residentially based

services programs to enhance the development and implementation of case plans and the delivery of services in order to enable a county and a private nonprofit agency to implement an agreement described in subdivision (b). Nothing in this section shall be construed to supersede the requirements set forth in subdivision (c) of Section 16501.

(2) Notwithstanding Sections 11460 and 11462, or any other law or regulation governing payments under the AFDC-FC program, upon the request of one or more counties, and in accordance with the voluntary agreements as described in subdivision (b), the director may also approve the use of up to a total of five alternative funding models for determining the method and level of payments that will be made under the AFDC-FC program to private nonprofit agencies operating residentially based services programs in lieu of using the rate classification levels and schedule of standard rates provided for in Section 11462. These alternative funding models may include, but shall not be limited to, the use of cost reimbursement, case rates, per diem or monthly rates, or a combination thereof. An alternative funding model shall do all of the following:

(A) Support the values and goals for residentially based services, including active child and family involvement, permanence, collaborative decisionmaking, and outcome measurement.

(B) Ensure that quality care and effective services are delivered to appropriate children or youth at a reasonable cost to the public.

(C) Ensure that payment levels are sufficient to permit the private nonprofit agencies operating residentially based services programs to provide care and supervision, social work activities, parallel predischarge community-based interventions for families, and followup postdischarge support and services for children and their families, including the cost of hiring and retaining qualified staff.

(D) Facilitate compliance with state requirements and the attainment of federal and state performance objectives.

(E) Control overall program costs by providing incentives for the private nonprofit agencies to use the most cost-effective approaches for achieving positive outcomes for the children or youth and their families.

(F) Facilitate the ability of the private nonprofit agencies to access other available public sources of funding and services to

meet the needs of the children or youth placed in their residentially based services programs, and the needs of their families.

(G) Enable the combination of various funding streams necessary to meet the full range of services needed by foster children or youth in residentially based services programs, with particular reference to funding for mental health treatment services through the Medi-Cal Early and Periodic Screening, Diagnosis, and Treatment program.

(H) Maximize federal financial participation, and mitigate the loss of federal funds, while ensuring the effective delivery of services to children or youth and families, and the achievement of positive outcomes.

(I) Provide for effective administrative oversight and enforcement mechanisms in order to ensure programmatic and fiscal accountability.

(3) A waiver granted by the director pursuant to paragraph (1), or an approval of an alternative funding model pursuant to paragraph (2), shall be applicable only to the development, implementation, and ongoing operation of a residentially based services program and related county activities provided under the terms of the agreement and for the duration of the agreement, and shall be granted only when all of the following apply:

(A) The agreement promises to offer a worthwhile test related to the development, implementation, and ongoing operation of a residentially based services program as described in this chapter.

(B) Existing regulatory provisions or the existing AFDC-FC payment requirements, or both, impose barriers for the effective, efficient, and timely implementation of the agreement.

(C) The requesting county proposes to monitor the agreement for compliance with the terms of the waiver or the alternative funding model, or both.

(D) Notwithstanding any change to payments made to group homes under Section 11462, the department may pay higher AFDC-FC payments for children and youth who are enrolled in a residentially based services program, to be offset by cost efficiencies achieved through shorter lengths of stay in foster care, or a reduction of reentries into foster care, as a result of providing predischarge support and postdischarge services to the children or youth and their families. Any upfront costs for this project shall be offset by other program savings identified by the department,

to ensure that there are no net General Fund costs in each fiscal year.

~~(e) The department shall conduct a review of the county residentially based services program, no sooner than 18 months after the first child is enrolled in the program, to determine whether children are moving from residentially based services group residential care facilities into lower levels of care or exiting from foster care to permanent families in a timely manner, as described in the county's approved residentially based services plan. With 60 days advance notice to the county, the department may terminate the county's participation in the residentially based services reform project if it determines, based on its review, that the county is not achieving timely movement from residentially based services group residential care facilities into lower levels of care or exits from foster care to permanent families with associated savings.~~

~~(f)~~

(e) In addition to the requirements set forth in subdivision (c), the voluntary agreements shall do all of the following:

(1) Provide that, to the extent that some of the care, services, and other activities associated with a residentially based services program operated under an agreement described in subdivision (b) are not eligible for federal financial participation as foster care maintenance payments under Part E (commencing with Section 470) of Title IV of the federal Social Security Act (42 U.S.C. Sec. 670 et seq.), but may be eligible for federal financial participation as administration or training, or may be eligible for federal financial participation under other programs, including, but not limited to, Title XIX of the federal Social Security Act (42 U.S.C. Sec. 1396 et seq.), the appropriate state departments shall take measures to obtain that federal funding.

(2) Provide that, prior to approving any waiver or alternative funding model pursuant to subdivision (d), the director shall make a determination that the design of the residentially based services program to be operated under the agreement described in subdivision (b) would ensure the health and safety of children or youth to be served.

~~(g)~~

(f) Agreements entered into pursuant to this section shall terminate on or before ~~January 1, 2015,~~ *July 1, 2016,* unless a later enacted statute extends or removes this limitation.

~~(h)~~

(g) The department shall report during the legislative budget hearings on the status of any county agreements entered into pursuant to subdivision (b), and on the development of statewide residentially based services programs. *This report shall be submitted with the recommendations made pursuant to Section 11461.2.*

SEC. 154. If the Commission on State Mandates determines that this act contains 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. 155. The sum of one thousand dollars ($1,000) is hereby appropriated from the General Fund to the State Department of Social Services for administration.

SEC. 156. This act is a bill providing for appropriations related to the Budget Bill within the meaning of subdivision (e) of Section 12 of Article IV of the California Constitution, has been identified as related to the budget in the Budget Bill, and shall take effect immediately.

~~SECTION 1. It is the intent of the Legislature to enact statutory changes relating to the Budget Act of 2012.~~

O