

AMENDED IN SENATE MARCH 19, 2012

SENATE BILL

No. 1064

Introduced by Senator De León

~~(Coauthor: Senator~~ **Coauthors: Senators Correa, Vargas, and Yee)**
(Coauthors: Assembly Members Alejo, V. Manuel Pérez, Swanson, and Williams)

February 13, 2012

An act to amend Section 3040 of the Family Code, to amend Sections 1510 and 1514 of the Probate Code, and to amend Sections 309, 361, 361.2, 361.3, 361.4, 361.5, 366.21, 366.215, 366.22, 366.25, 366.27, 388, and 16501.1 of, and to add Sections 10609.95 and 10609.97 to, the Welfare and Institutions Code, relating to child custody.

LEGISLATIVE COUNSEL'S DIGEST

SB 1064, as amended, De León. Child custody: immigration.

(1) Under existing law, a child who is removed from the physical custody of his or her *parent or* parents in dissolution, dependency, or probate guardianship proceedings may be placed with a *parent, relative, legal guardian, or other specified persons or in specified placement homes or facilities*. When a child is placed with his or her relative during dependency proceedings and the relative is not a licensed or certified foster parent, existing law requires a county social worker to visit the relative's home, prior to placing the child in that home, to ascertain the appropriateness of the placement. Existing law also requires the court or county social worker to initiate a state and federal criminal records check of the relative through the California Law Enforcement Telecommunications System as part of the assessment.

This bill would permit a court to place a child in any of those proceedings with a *parent, legal guardian, or* relative regardless of the

relative's immigration status *of the parent, legal guardian, or relative*. This bill would also permit a relative's foreign consulate identification card or foreign passport to be used for initiating the criminal records and fingerprint clearance checks. To the extent this bill would impose additional duties on county welfare departments, this bill would create a state-mandated local program.

(2) Existing law sets forth the procedure for terminating the parental rights of a dependent child, including regular review hearings before a court may order a hearing to terminate parental rights. Under existing law, a court may continue these review hearings 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.

This bill would authorize a court to extend the review hearing periods following consideration of the parent's circumstances if a parent has been arrested and issued an immigration hold, detained by the United States ~~Immigration and Customs Enforcement~~ *Department of Homeland Security*, or deported to his or her country of origin, and, under these circumstances would authorize a court to continue the case only if the court finds that the parent has made reasonable efforts to regain custody of the child or that termination of parental rights would be detrimental to the child. The bill would prohibit this extension under specified circumstances, including if the child was an abandoned infant, the parent was accused of murder or voluntary manslaughter of another of his or her children or of felony assault against this child or another of the parent's children. Additionally, the bill would authorize a court to decide not to extend the case if the child was under 3 years of age or part of a sibling group in which at least one child was under 3 years of age and the siblings were or should be placed together. ~~The bill would permit the review hearing to be extended up to a maximum period not to exceed 24 months after the date the child was removed from the parent's physical custody.~~

(3) Existing law establishes the State Department of Social Services, which oversees the administration of county public social services, including child welfare services.

This bill would require the State Department of Social Services to provide guidance to counties and municipalities, *no later than July 1, 2013*, to establish memoranda of understanding with foreign consulates in child custody cases, including procedures for contacting a consulate,

accessing a child’s documentation, locating a detained parent, assisting in family reunification after a parent has been deported, *aiding the safe transfer of a child to the parent’s country of origin*, and communicating with relevant departments and services in a parent’s country of origin. The bill would require a county or municipality subject to a memorandum of understanding to contact a foreign consulate for necessary documents if a child in a child custody case is eligible for special immigrant juvenile status under federal law. Additionally, the bill would require the department to provide guidelines to counties and municipalities, *no later than July 1, 2013*, detailing procedures for social workers to assist children in child custody and dependency cases who are eligible for special immigrant juvenile status *and any other form of relief available under any immigration law*.

(4) *The bill would change references in the above-described provisions from the United States Immigration and Customs Enforcement to the United States Department of Homeland Security, and would make other technical, nonsubstantive changes.*

~~(4)~~

(5) 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.

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

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

- 1 SECTION 1. Section 3040 of the Family Code is amended to
- 2 read:
- 3 3040. (a) Custody should be granted in the following order of
- 4 preference according to the best interest of the child as provided
- 5 in Sections 3011 and 3020:
- 6 (1) To both parents jointly pursuant to Chapter 4 (commencing
- 7 with Section 3080) or to either parent. In making an order granting
- 8 custody to either parent, the court shall consider, among other
- 9 factors, which parent is more likely to allow the child frequent and
- 10 continuing contact with the noncustodial parent, consistent with

1 Sections 3011 and 3020, and shall not prefer a parent as custodian
 2 because of that parent’s sex. The court, in its discretion, may
 3 require the parents to submit to the court a plan for the
 4 implementation of the custody order.

5 (2) If to neither parent, to the person or persons in whose home
 6 the child has been living in a wholesome and stable environment.

7 (3) To any other person or persons deemed by the court to be
 8 suitable and able to provide adequate and proper care and guidance
 9 for the child.

10 (b) ~~A relative’s~~ *The immigration status of a parent, legal*
 11 *guardian, or relative shall not disqualify the parent, legal guardian,*
 12 *or relative from receiving custody under paragraphs (2) and (3)*
 13 ~~of subdivision (a).~~

14 (c) This section establishes neither a preference nor a
 15 presumption for or against joint legal custody, joint physical
 16 custody, or sole custody, but allows the court and the family the
 17 widest discretion to choose a parenting plan that is in the best
 18 interest of the child.

19 SEC. 2. Section 1510 of the Probate Code is amended to read:

20 1510. (a) A relative or other person on behalf of the minor, or
 21 the minor if 12 years of age or older, may file a petition for the
 22 appointment of a guardian of the minor. A relative may file a
 23 ~~guardianship~~ *petition for appointment of a guardian* under this
 24 section regardless of the relative’s immigration status.

25 (b) The petition shall request that a guardian of the person or
 26 estate of the minor, or both, be appointed, shall specify the name
 27 and address of the proposed guardian and the name and date of
 28 birth of the proposed ward, and shall state that the appointment is
 29 necessary or convenient.

30 (c) The petition shall set forth, so far as is known to the
 31 petitioner, the names and addresses of all of the following:

- 32 (1) The parents of the proposed ward.
- 33 (2) The person having legal custody of the proposed ward and,
 34 if that person does not have the care of the proposed ward, the
 35 person having the care of the proposed ward.
- 36 (3) The relatives of the proposed ward within the second degree.
- 37 (4) In the case of a guardianship of the estate, the spouse of the
 38 proposed ward.
- 39 (5) Any person nominated as guardian for the proposed ward
 40 under Section 1500 or 1501.

1 (6) In the case of a guardianship of the person involving an
2 Indian child, any Indian custodian and the Indian child's tribe.

3 (d) If the proposed ward is a patient in or on leave of absence
4 from a state institution under the jurisdiction of the State
5 Department of Mental Health or the State Department of
6 Developmental Services and that fact is known to the petitioner,
7 the petition shall state that fact and name the institution.

8 (e) The petition shall state, so far as is known to the petitioner,
9 whether or not the proposed ward is receiving or is entitled to
10 receive benefits from the Veterans Administration and the
11 estimated amount of the monthly benefit payable by the Veterans
12 Administration for the proposed ward.

13 (f) If the petitioner has knowledge of any pending adoption,
14 juvenile court, marriage dissolution, domestic relations, custody,
15 or other similar proceeding affecting the proposed ward, the
16 petition shall disclose the pending proceeding.

17 (g) If the petitioners have accepted or intend to accept physical
18 care or custody of the child with intent to adopt, whether formed
19 at the time of placement or formed subsequent to placement, the
20 petitioners shall so state in the guardianship petition, whether or
21 not an adoption petition has been filed.

22 (h) If the proposed ward is or becomes the subject of an adoption
23 petition, the court shall order the guardianship petition consolidated
24 with the adoption petition, and the consolidated case shall be heard
25 and decided in the court in which the adoption is pending.

26 (i) If the proposed ward is or may be an Indian child, the petition
27 shall state that fact.

28 SEC. 3. Section 1514 of the Probate Code is amended to read:

29 1514. (a) Upon hearing of the petition, if it appears necessary
30 or convenient, the court may appoint a guardian of the person or
31 estate of the proposed ward or both.

32 (b) (1) In appointing a guardian of the person, the court is
33 governed by Chapter 1 (commencing with Section 3020) and
34 Chapter 2 (commencing with Section 3040) of Part 2 of Division
35 8 of the Family Code, relating to custody of a minor.

36 (2) Except as provided in Section 2105, a minor's parent may
37 not be appointed as a guardian of the person of the minor.

38 (c) The court shall appoint a guardian nominated under Section
39 1500 insofar as the nomination relates to the guardianship of the
40 estate unless the court determines that the nominee is unsuitable.

1 If the nominee is a relative, the nominee's immigration status alone
2 shall not constitute unsuitability.

3 (d) The court shall appoint the person nominated under Section
4 1501 as guardian of the property covered by the nomination unless
5 the court determines that the nominee is unsuitable. If the person
6 so appointed is appointed only as guardian of the property covered
7 by the nomination, the letters of guardianship shall so indicate.

8 (e) Subject to subdivisions (c) and (d), in appointing a guardian
9 of the estate:

10 (1) The court is to be guided by what appears to be in the best
11 interest of the proposed ward, taking into account the proposed
12 guardian's ability to manage and to preserve the estate as well as
13 the proposed guardian's concern for and interest in the welfare of
14 the proposed ward.

15 (2) If the proposed ward is of sufficient age to form an intelligent
16 preference as to the person to be appointed as guardian, the court
17 shall give consideration to that preference in determining the person
18 to be so appointed.

19 SEC. 4. Section 309 of the Welfare and Institutions Code is
20 amended to read:

21 309. (a) Upon delivery to the social worker of a child who has
22 been taken into temporary custody under this article, the social
23 worker shall immediately investigate the circumstances of the child
24 and the facts surrounding the child's being taken into custody and
25 attempt to maintain the child with the child's family through the
26 provision of services. The social worker shall immediately release
27 the child to the custody of the child's parent, guardian, or
28 responsible relative, regardless of the *parent's, guardian's, or*
29 *relative's* immigration status, unless one or more of the following
30 conditions exist:

31 (1) The child has no parent, guardian, or responsible relative;
32 or the child's parent, guardian, or responsible relative is not willing
33 to provide care for the child.

34 (2) Continued detention of the child is a matter of immediate
35 and urgent necessity for the protection of the child and there are
36 no reasonable means by which the child can be protected in his or
37 her home or the home of a responsible relative.

38 (3) There is substantial evidence that a parent, guardian, or
39 custodian of the child is likely to flee the jurisdiction of the court.

1 (4) The child has left a placement in which he or she was placed
2 by the juvenile court.

3 (5) The parent or other person having lawful custody of the
4 child voluntarily surrendered physical custody of the child pursuant
5 to Section 1255.7 of the Health and Safety Code and did not
6 reclaim the child within the 14-day period specified in subdivision
7 (e) of that section.

8 (b) In any case in which there is reasonable cause for believing
9 that a child who is under the care of a physician and surgeon or a
10 hospital, clinic, or other medical facility and cannot be immediately
11 moved and is a person described in Section 300, the child shall be
12 deemed to have been taken into temporary custody and delivered
13 to the social worker for the purposes of this chapter while the child
14 is at the office of the physician and surgeon or the medical facility.

15 (c) If the child is not released to his or her parent or guardian,
16 the child shall be deemed detained for purposes of this chapter.

17 (d) (1) If an able and willing relative, as defined in Section 319,
18 or an able and willing nonrelative extended family member, as
19 defined in Section 362.7, is available and requests temporary
20 placement of the child pending the detention hearing, the county
21 welfare department shall initiate an assessment of the relative's or
22 nonrelative extended family member's suitability, which shall
23 include an in-home inspection to assess the safety of the home and
24 the ability of the relative or nonrelative extended family member
25 to care for the child's needs, and a consideration of the results of
26 a criminal records check conducted pursuant to subdivision (a) of
27 Section 16504.5 and a check of allegations of prior child abuse or
28 neglect concerning the relative or nonrelative extended family
29 member and other adults in the home. A relative's identification
30 card from a foreign consulate or foreign passport shall be
31 considered a valid form of identification for conducting a criminal
32 records check and fingerprint clearance check under this
33 subdivision. Upon completion of this assessment, the child may
34 be placed in the assessed home. For purposes of this paragraph,
35 and except for the criminal records check conducted pursuant to
36 subdivision (a) of Section 16504.5, the standards used to determine
37 suitability shall be the same standards set forth in the regulations
38 for the licensing of foster family homes.

39 (2) Immediately following the placement of a child in the home
40 of a relative or a nonrelative extended family member, the county

1 welfare department shall evaluate and approve or deny the home
2 for purposes of AFDC-FC eligibility pursuant to Section 11402.
3 The standards used to evaluate and grant or deny approval of the
4 home of the relative and of the home of a nonrelative extended
5 family member, as described in Section 362.7, shall be the same
6 standards set forth in regulations for the licensing of foster family
7 homes which prescribe standards of safety and sanitation for the
8 physical plant and standards for basic personal care, supervision,
9 and services provided by the caregiver.

10 (3) To the extent allowed by federal law, as a condition of
11 receiving funding under Title IV-E of the federal Social Security
12 Act (42 U.S.C. Sec. 670 et seq.), if a relative or nonrelative
13 extended family member meets all other conditions for approval,
14 except for the receipt of the Federal Bureau of Investigation's
15 criminal history information for the relative or nonrelative extended
16 family member, and other adults in the home, as indicated, the
17 county welfare department may approve the home and document
18 that approval, if the relative or nonrelative extended family
19 member, and each adult in the home, has signed and submitted a
20 statement that he or she has never been convicted of a crime in the
21 United States, other than a traffic infraction as defined in paragraph
22 (1) of subdivision (a) of Section 42001 of the Vehicle Code. If,
23 after the approval has been granted, the department determines
24 that the relative or nonrelative extended family member or other
25 adult in the home has a criminal record, the approval may be
26 terminated.

27 (4) If the criminal records check indicates that the person has
28 been convicted of a crime for which the Director of Social Services
29 cannot grant an exemption under Section 1522 of the Health and
30 Safety Code, the child shall not be placed in the home. If the
31 criminal records check indicates that the person has been convicted
32 of a crime for which the Director of Social Services may grant an
33 exemption under Section 1522 of the Health and Safety Code, the
34 child shall not be placed in the home unless a criminal records
35 exemption has been granted by the county based on substantial
36 and convincing evidence to support a reasonable belief that the
37 person with the criminal conviction is of such good character as
38 to justify the placement and not present a risk of harm to the child.

39 (e) (1) If the child is removed, the social worker shall conduct,
40 within 30 days, an investigation in order to identify and locate all

1 grandparents, adult siblings, and other adult relatives of the child,
2 as defined in paragraph (2) of subdivision (f) of Section 319,
3 including any other adult relatives suggested by the parents. The
4 social worker shall provide to all adult relatives who are located,
5 except when that relative's history of family or domestic violence
6 makes notification inappropriate, within 30 days of removal of the
7 child, written notification and shall also, whenever appropriate,
8 provide oral notification, in person or by telephone, of all the
9 following information:

10 (A) The child has been removed from the custody of his or her
11 parent or parents, or his or her guardians.

12 (B) An explanation of the various options to participate in the
13 care and placement of the child and support for the child's family,
14 including any options that may be lost by failing to respond. The
15 notice shall provide information about providing care for the child
16 while the family receives reunification services with the goal of
17 returning the child to the parent or guardian, how to become a
18 foster family home or approved relative or nonrelative extended
19 family member as defined in Section 362.7, and additional services
20 and support that are available in out-of-home placements. The
21 notice shall also include information regarding the Kin-GAP
22 Program (Article 4.5 (commencing with Section 11360) of Chapter
23 2 of Part 3 of Division 9), the CalWORKs program for approved
24 relative caregivers (Chapter 2 (commencing with Section 11200)
25 of Part 3 of Division 9), adoption, and adoption assistance (Chapter
26 2.1 (commencing with Section 16115) of Part 4 of Division 9), as
27 well as other options for contact with the child, including, but not
28 limited to, visitation. The State Department of Social Services, in
29 consultation with the County Welfare Directors Association of
30 California and other interested stakeholders, shall develop the
31 written notice.

32 (2) On and after January 1, 2011, the social worker shall also
33 provide the adult relatives notified pursuant to paragraph (1) with
34 a relative information form to provide information to the social
35 worker and the court regarding the needs of the child. The form
36 shall include a provision whereby the relative may request the
37 permission of the court to address the court, if the relative so
38 chooses. The Judicial Council, in consultation with the State
39 Department of Social Services and the County Welfare Directors
40 Association of California, shall develop the form.

1 (3) The social worker shall use due diligence in investigating
2 the names and locations of the relatives pursuant to paragraph (1),
3 including, but not limited to, asking the child in an age-appropriate
4 manner about relatives important to the child, consistent with the
5 child's best interest, and obtaining information regarding the
6 location of the child's adult relatives. Each county welfare
7 department shall create and make public a procedure by which
8 relatives of a child who has been removed from his or her parents
9 or guardians may identify themselves to the county welfare
10 department and be provided with the notices required by paragraphs
11 (1) and (2).

12 SEC. 5. Section 361 of the Welfare and Institutions Code is
13 amended to read:

14 361. (a) In all cases in which a minor is adjudged a dependent
15 child of the court on the ground that the minor is a person described
16 by Section 300, the court may limit the control to be exercised
17 over the dependent child by any parent or guardian and shall by
18 its order clearly and specifically set forth all those limitations. Any
19 limitation on the right of the parent or guardian to make educational
20 or developmental services decisions for the child shall be
21 specifically addressed in the court order. The limitations may not
22 exceed those necessary to protect the child. If the court specifically
23 limits the right of the parent or guardian to make educational or
24 developmental services decisions for the child, the court shall at
25 the same time appoint a responsible adult to make educational or
26 developmental services decisions for the child until one of the
27 following occurs:

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

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

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

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

37 (5) The child is placed into a planned permanent living
38 arrangement pursuant to paragraph (5) of subdivision (g) of Section
39 366.21, Section 366.22, or Section 366.26, at which time, for
40 educational decisionmaking, the foster parent, relative caretaker,

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

8 An individual who would have a conflict of interest in
9 representing the child may not be appointed to make educational
10 or developmental services decisions. For purposes of this section,
11 “an individual who would have a conflict of interest,” means a
12 person having any interests that might restrict or bias his or her
13 ability to make educational or developmental services decisions,
14 including, but not limited to, those conflicts of interest prohibited
15 by Section 1126 of the Government Code, and the receipt of
16 compensation or ~~attorneys’~~ attorney’s fees for the provision of
17 services pursuant to this section. A foster parent may not be deemed
18 to have a conflict of interest solely because he or she receives
19 compensation for the provision of services pursuant to this section.

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

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

35 If the court appoints a developmental services decisionmaker
36 pursuant to this section, he or she shall have the authority to access
37 the child’s information and records pursuant to subdivision (u) of
38 Section 4514 and subdivision (y) of Section 5328, and to act on
39 the child’s behalf for the purposes of the individual program plan
40 process pursuant to Sections 4646, 4646.5, and 4648 and the fair

1 hearing process pursuant to Chapter 7 (commencing with Section
2 4700) of Division 4.5, and as set forth in the court order.

3 If the court cannot identify a responsible adult to make
4 developmental services decisions for the child, the court may, with
5 the input of any interested person, make developmental services
6 decisions for the child. If the child is receiving services from a
7 regional center, the provision of any developmental services related
8 to the court’s decision must be consistent with the child’s individual
9 program plan and pursuant to the provisions of the Lanterman
10 Developmental Disabilities Services Act (Division 4.5
11 (commencing with Section 4500)).

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

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

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

29 (1) There is or would be a substantial danger to the physical
30 health, safety, protection, or physical or emotional well-being of
31 the minor if the minor were returned home, and there are no
32 reasonable means by which the minor’s physical health can be
33 protected without removing the minor from the minor’s parent’s
34 or guardian’s physical custody. The fact that a minor has been
35 adjudicated a dependent child of the court pursuant to subdivision
36 (e) of Section 300 shall constitute prima facie evidence that the
37 minor cannot be safely left in the physical custody of the parent
38 or guardian with whom the minor resided at the time of injury.
39 The court shall consider, as a reasonable means to protect the
40 minor, the option of removing an offending parent or guardian

1 from the home. The court shall also consider, as a reasonable means
2 to protect the minor, allowing a nonoffending parent or guardian
3 to retain physical custody as long as that parent or guardian
4 presents a plan acceptable to the court demonstrating that he or
5 she will be able to protect the child from future harm.

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

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

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

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

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

37 (A) Stipulation by the parent, Indian custodian, or the Indian
38 child's tribe, or failure to object, may waive the requirement of
39 producing evidence of the likelihood of serious damage only if the
40 court is satisfied that the party has been fully advised of the

1 requirements of the federal Indian Child Welfare Act (25 U.S.C.
2 Sec. 1901 et seq.), and has knowingly, intelligently, and voluntarily
3 waived them.

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

9 (d) The court shall make a determination as to whether
10 reasonable efforts were made to prevent or to eliminate the need
11 for removal of the minor from his or her home or, if the minor is
12 removed for one of the reasons stated in paragraph (5) of
13 subdivision (c), whether it was reasonable under the circumstances
14 not to make any of those efforts, or, in the case of an Indian child
15 custody proceeding, whether active efforts as required in Section
16 361.7 were made and that these efforts have proved unsuccessful.
17 The court shall state the facts on which the decision to remove the
18 minor is based.

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

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

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

27 SEC. 6. Section 361.2 of the Welfare and Institutions Code is
28 amended to read:

29 361.2. (a) When a court orders removal of a child pursuant to
30 Section 361, the court shall first determine whether there is a parent
31 of the child, with whom the child was not residing at the time that
32 the events or conditions arose that brought the child within the
33 provisions of Section 300, who desires to assume custody of the
34 child. If that parent requests custody, the court shall place the child
35 with the parent unless it finds that placement with that parent would
36 be detrimental to the safety, protection, or physical or emotional
37 well-being of the child.

38 (b) If the court places the child with that parent it may do any
39 of the following:

1 (1) Order that the parent become legal and physical custodian
2 of the child. The court may also provide reasonable visitation by
3 the noncustodial parent. The court shall then terminate its
4 jurisdiction over the child. The custody order shall continue unless
5 modified by a subsequent order of the superior court. The order
6 of the juvenile court shall be filed in any domestic relation
7 proceeding between the parents.

8 (2) Order that the parent assume custody subject to the
9 jurisdiction of the juvenile court and require that a home visit be
10 conducted within three months. In determining whether to take
11 the action described in this paragraph, the court shall consider any
12 concerns that have been raised by the child's current caregiver
13 regarding the parent. After the social worker conducts the home
14 visit and files his or her report with the court, the court may then
15 take the action described in paragraph (1), (3), or this paragraph.
16 However, nothing in this paragraph shall be interpreted to imply
17 that the court is required to take the action described in this
18 paragraph as a prerequisite to the court taking the action described
19 in either paragraph (1) or paragraph (3).

20 (3) Order that the parent assume custody subject to the
21 supervision of the juvenile court. In that case the court may order
22 that reunification services be provided to the parent or guardian
23 from whom the child is being removed, or the court may order that
24 services be provided solely to the parent who is assuming physical
25 custody in order to allow that parent to retain later custody without
26 court supervision, or that services be provided to both parents, in
27 which case the court shall determine, at review hearings held
28 pursuant to Section 366, which parent, if either, shall have custody
29 of the child.

30 (c) The court shall make a finding either in writing or on the
31 record of the basis for its determination under subdivisions (a) and
32 (b).

33 (d) Part 6 (commencing with Section 7950) of Division 12 of
34 the Family Code shall apply to the placement of a child pursuant
35 to paragraphs (1) and (2) of subdivision (e).

36 (e) When the court orders removal pursuant to Section 361, the
37 court shall order the care, custody, control, and conduct of the
38 child to be under the supervision of the social worker who may
39 place the child in any of the following:

- 1 (1) The home of a noncustodial parent as described in
2 subdivision (a), *regardless of the parent's immigration status.*
- 3 (2) The approved home of a relative, regardless of the relative's
4 immigration status.
- 5 (3) The approved home of a nonrelative extended family
6 member as defined in Section 362.7.
- 7 (4) A foster home in which the child has been placed before an
8 interruption in foster care, if that placement is in the best interest
9 of the child and space is available.
- 10 (5) A suitable licensed community care facility.
- 11 (6) With a foster family agency to be placed in a suitable
12 licensed foster family home or certified family home which has
13 been certified by the agency as meeting licensing standards.
- 14 (7) A home or facility in accordance with the federal Indian
15 Child Welfare Act (*25 U.S.C. Sec. 1901 et seq.*).
- 16 (8) A child under the age of six years may be placed in a
17 community care facility licensed as a group home for children, or
18 a temporary shelter care facility as defined in Section 1530.8 of
19 the Health and Safety Code, only under any of the following
20 circumstances:
 - 21 (A) When a case plan indicates that placement is for purposes
22 of providing specialized treatment to the child, the case plan
23 specifies the need for, nature of, and anticipated duration of this
24 treatment, and the facility meets the applicable regulations adopted
25 under Section 1530.8 of the Health and Safety Code and standards
26 developed pursuant to Section 11467.1. The specialized treatment
27 period shall not exceed 120 days, unless additional time is needed
28 pursuant to the case plan as documented by the caseworker and
29 approved by the caseworker's supervisor.
 - 30 (B) When a case plan indicates that placement is for purposes
31 of providing family reunification services. In addition, the facility
32 offers family reunification services that meet the needs of the
33 individual child and his or her family, permits parents to have
34 reasonable access to their children 24 hours a day, encourages
35 extensive parental involvement in meeting the daily needs of their
36 children, and employs staff trained to provide family reunification
37 services. In addition, one of the following conditions exists:
 - 38 (i) The child's parent is also a ward of the court and resides in
39 the facility.

1 (ii) The child's parent is participating in a treatment program
2 affiliated with the facility and the child's placement in the facility
3 facilitates the coordination and provision of reunification services.

4 (iii) Placement in the facility is the only alternative that permits
5 the parent to have daily 24-hour access to the child in accordance
6 with the case plan, to participate fully in meeting all of the daily
7 needs of the child, including feeding and personal hygiene, and to
8 have access to necessary reunification services.

9 (f) (1) If the child is taken from the physical custody of the
10 child's parent or guardian and unless the child is placed with
11 relatives, the child shall be placed in foster care in the county of
12 residence of the child's parent or guardian in order to facilitate
13 reunification of the family.

14 (2) In the event that there are no appropriate placements
15 available in the parent's or guardian's county of residence, a
16 placement may be made in an appropriate place in another county,
17 preferably a county located adjacent to the parent's or guardian's
18 community of residence.

19 (3) Nothing in this section shall be interpreted as requiring
20 multiple disruptions of the child's placement corresponding to
21 frequent changes of residence by the parent or guardian. In
22 determining whether the child should be moved, the social worker
23 shall take into consideration the potential harmful effects of
24 disrupting the placement of the child and the parent's or guardian's
25 reason for the move.

26 (4) When it has been determined that it is necessary for a child
27 to be placed in a county other than the child's parent's or guardian's
28 county of residence, the specific reason the out-of-county
29 placement is necessary shall be documented in the child's case
30 plan. If the reason the out-of-county placement is necessary is the
31 lack of resources in the sending county to meet the specific needs
32 of the child, those specific resource needs shall be documented in
33 the case plan.

34 (5) When it has been determined that a child is to be placed
35 out-of-county either in a group home or with a foster family agency
36 for subsequent placement in a certified foster family home, and
37 the sending county is to maintain responsibility for supervision
38 and visitation of the child, the sending county shall develop a plan
39 of supervision and visitation that specifies the supervision and
40 visitation activities to be performed and specifies that the sending

1 county is responsible for performing those activities. In addition
2 to the plan of supervision and visitation, the sending county shall
3 document information regarding any known or suspected dangerous
4 behavior of the child that indicates the child may pose a safety
5 concern in the receiving county. Upon implementation of the Child
6 Welfare Services Case Management System, the plan of
7 supervision and visitation, as well as information regarding any
8 known or suspected dangerous behavior of the child, shall be made
9 available to the receiving county upon placement of the child in
10 the receiving county. If placement occurs on a weekend or holiday,
11 the information shall be made available to the receiving county on
12 or before the end of the next business day.

13 (6) When it has been determined that a child is to be placed
14 out-of-county and the sending county plans that the receiving
15 county shall be responsible for the supervision and visitation of
16 the child, the sending county shall develop a formal agreement
17 between the sending and receiving counties. The formal agreement
18 shall specify the supervision and visitation to be provided the child,
19 and shall specify that the receiving county is responsible for
20 providing the supervision and visitation. The formal agreement
21 shall be approved and signed by the sending and receiving counties
22 prior to placement of the child in the receiving county. In addition,
23 upon completion of the case plan, the sending county shall provide
24 a copy of the completed case plan to the receiving county. The
25 case plan shall include information regarding any known or
26 suspected dangerous behavior of the child that indicates the child
27 may pose a safety concern to the receiving county.

28 (g) Whenever the social worker must change the placement of
29 the child and is unable to find a suitable placement within the
30 county and must place the child outside the county, the placement
31 shall not be made until he or she has served written notice on the
32 parent or guardian at least 14 days prior to the placement, unless
33 the child's health or well-being is endangered by delaying the
34 action or would be endangered if prior notice were given. The
35 notice shall state the reasons which require placement outside the
36 county. The parent or guardian may object to the placement not
37 later than seven days after receipt of the notice and, upon objection,
38 the court shall hold a hearing not later than five days after the
39 objection and prior to the placement. The court shall order

1 out-of-county placement if it finds that the child’s particular needs
2 require placement outside the county.

3 (h) Where the court has ordered removal of the child from the
4 physical custody of his or her parents pursuant to Section 361, the
5 court shall consider whether the family ties and best interest of the
6 child will be served by granting visitation rights to the child’s
7 grandparents. The court shall clearly specify those rights to the
8 social worker.

9 (i) Where the court has ordered removal of the child from the
10 physical custody of his or her parents pursuant to Section 361, the
11 court shall consider whether there are any siblings under the court’s
12 jurisdiction, the nature of the relationship between the child and
13 his or her siblings, the appropriateness of developing or maintaining
14 the sibling relationships pursuant to Section 16002, and the impact
15 of the sibling relationships on the child’s placement and planning
16 for legal permanence.

17 (j) (1) When an agency has placed a child with a relative
18 caregiver, a nonrelative extended family member, a licensed foster
19 family home, or a group home, the agency shall ensure placement
20 of the child in a home that, to the fullest extent possible, best meets
21 the day-to-day needs of the child. A home that best meets the
22 day-to-day needs of the child shall satisfy all of the following
23 criteria:

24 (A) The child’s caregiver is able to meet the day-to-day health,
25 safety, and well-being needs of the child.

26 (B) The child’s caregiver is permitted to maintain the least
27 restrictive and most family-like environment that serves the
28 day-to-day needs of the child.

29 (C) The child is permitted to engage in reasonable,
30 age-appropriate day-to-day activities that promote the most
31 family-like environment for the foster child.

32 (2) The foster child’s caregiver shall use a reasonable and
33 prudent parent standard, as defined in paragraph (2) of subdivision
34 (a) of Section 362.04, to determine day-to-day activities that are
35 age-appropriate to meet the needs of the child. Nothing in this
36 section shall be construed to permit a child’s caregiver to permit
37 the child to engage in day-to-day activities that carry an
38 unreasonable risk of harm, or subject the child to abuse or neglect.

39 SEC. 7. Section 361.3 of the Welfare and Institutions Code is
40 amended to read:

1 361.3. (a) In any case in which a child is removed from the
2 physical custody of his or her parents pursuant to Section 361,
3 preferential consideration shall be given to a request by a relative
4 of the child for placement of the child with the relative, regardless
5 of the relative's immigration status. In determining whether
6 placement with a relative is appropriate, the county social worker
7 and court shall consider, but shall not be limited to, consideration
8 of all the following factors:

9 (1) The best interest of the child, including special physical,
10 psychological, educational, medical, or emotional needs.

11 (2) The wishes of the parent, the relative, and child, if
12 appropriate.

13 (3) The provisions of Part 6 (commencing with Section 7950)
14 of Division 12 of the Family Code regarding relative placement.

15 (4) Placement of siblings and half siblings in the same home,
16 if that placement is found to be in the best interest of each of the
17 children as provided in Section 16002.

18 (5) The good moral character of the relative and any other adult
19 living in the home, including whether any individual residing in
20 the home has a prior history of violent criminal acts or has been
21 responsible for acts of child abuse or neglect.

22 (6) The nature and duration of the relationship between the child
23 and the relative, and the relative's desire to care for, and to provide
24 legal permanency for, the child if reunification is unsuccessful.

25 (7) The ability of the relative to do the following:

26 (A) Provide a safe, secure, and stable environment for the child.

27 (B) Exercise proper and effective care and control of the child.

28 (C) Provide a home and the necessities of life for the child.

29 (D) Protect the child from his or her parents.

30 (E) Facilitate court-ordered reunification efforts with the parents.

31 (F) Facilitate visitation with the child's other relatives.

32 (G) Facilitate implementation of all elements of the case plan.

33 (H) Provide legal permanence for the child if reunification fails.

34 However, any finding made with respect to the factor considered
35 pursuant to this subparagraph and pursuant to subparagraph (G)
36 shall not be the sole basis for precluding preferential placement
37 with a relative.

38 (I) Arrange for appropriate and safe child care, as necessary.

39 (8) The safety of the relative's home. For a relative to be
40 considered appropriate to receive placement of a child under this

1 section, the relative's home shall first be approved pursuant to the
2 process and standards described in subdivision (d) of Section 309.

3 In this regard, the Legislature declares that a physical disability,
4 such as blindness or deafness, is no bar to the raising of children,
5 and a county social worker's determination as to the ability of a
6 disabled relative to exercise care and control should center upon
7 whether the relative's disability prevents him or her from exercising
8 care and control. The court shall order the parent to disclose to the
9 county social worker the names, residences, and any other known
10 identifying information of any maternal or paternal relatives of
11 the child. This inquiry shall not be construed, however, to guarantee
12 that the child will be placed with any person so identified. The
13 county social worker shall initially contact the relatives given
14 preferential consideration for placement to determine if they desire
15 the child to be placed with them. Those desiring placement shall
16 be assessed according to the factors enumerated in this subdivision.
17 The county social worker shall document these efforts in the social
18 study prepared pursuant to Section 358.1. The court shall authorize
19 the county social worker, while assessing these relatives for the
20 possibility of placement, to disclose to the relative, as appropriate,
21 the fact that the child is in custody, the alleged reasons for the
22 custody, and the projected likely date for the child's return home
23 or placement for adoption or legal guardianship. However, this
24 investigation shall not be construed as good cause for continuance
25 of the dispositional hearing conducted pursuant to Section 358.

26 (b) In any case in which more than one appropriate relative
27 requests preferential consideration pursuant to this section, each
28 relative shall be considered under the factors enumerated in
29 subdivision (a).

30 (c) For purposes of this section:

31 (1) "Preferential consideration" means that the relative seeking
32 placement shall be the first placement to be considered and
33 investigated.

34 (2) "Relative" means an adult who is related to the child by
35 blood, adoption, or affinity within the fifth degree of kinship,
36 including stepparents, stepsiblings, and all relatives whose status
37 is preceded by the words "great," ~~"great-great"~~ or "grand"
38 "*great-great,*" or "*grand,*" or the spouse of any of these persons
39 even if the marriage was terminated by death or dissolution.
40 However, only the following relatives shall be given preferential

1 consideration for the placement of the child: an adult who is a
2 grandparent, aunt, uncle, or sibling.

3 (d) Subsequent to the hearing conducted pursuant to Section
4 358, whenever a new placement of the child must be made,
5 consideration for placement shall again be given as described in
6 this section to relatives who have not been found to be unsuitable
7 and who will fulfill the child’s reunification or permanent plan
8 requirements. In addition to the factors described in subdivision
9 (a), the county social worker shall consider whether the relative
10 has established and maintained a relationship with the child.

11 (e) If the court does not place the child with a relative who has
12 been considered for placement pursuant to this section, the court
13 shall state for the record the reasons placement with that relative
14 was denied.

15 (f) (1) With respect to a child who satisfies the criteria set forth
16 in paragraph (2), the department and any licensed adoption agency
17 may search for a relative and furnish identifying information
18 relating to the child to that relative if it is believed the child’s
19 welfare will be promoted thereby.

20 (2) Paragraph (1) shall apply if both of the following conditions
21 are satisfied:

- 22 (A) The child was previously a dependent of the court.
- 23 (B) The child was previously adopted and the adoption has been
24 disrupted, set aside pursuant to Section 9100 or 9102 of the Family
25 Code, or the child has been released into the custody of the
26 department or a licensed adoption agency by the adoptive parent
27 or parents.

28 (3) As used in this subdivision, “relative” includes a member
29 of the child’s birth family and nonrelated extended family
30 members, regardless of whether the parental rights were terminated,
31 provided that both of the following are true:

32 (A) No appropriate potential caretaker is known to exist from
33 the child’s adoptive family, including nonrelated extended family
34 members of the adoptive family.

35 (B) The child was not the subject of a voluntary relinquishment
36 by the birth parents pursuant to Section 8700 of the Family Code
37 or Section 1255.7 of the Health and Safety Code.

38 SEC. 8. Section 361.4 of the Welfare and Institutions Code is
39 amended to read:

1 361.4. (a) Prior to placing a child in the home of a relative, or
2 the home of any prospective guardian or other person who is not
3 a licensed or certified foster parent, the county social worker shall
4 visit the home to ascertain the appropriateness of the placement.

5 (b) (1) Whenever a child may be placed in the home of a
6 relative, or the home of any prospective guardian or other person
7 who is not a licensed or certified foster parent, the court or county
8 social worker placing the child shall cause a state-level criminal
9 records check to be conducted by an appropriate government
10 agency through the California Law Enforcement
11 Telecommunications System (CLETS) pursuant to Section 16504.5.
12 The criminal records check shall be conducted with regard to all
13 persons over 18 years of age living in the home, and on any other
14 person over 18 years of age, other than professionals providing
15 professional services to the child, known to the placing entity who
16 may have significant contact with the child, including any person
17 who has a familial or intimate relationship with any person living
18 in the home. A criminal records check may be conducted pursuant
19 to this section on any person over 14 years of age living in the
20 home who the county social worker believes may have a criminal
21 record. Within 10 calendar days following the criminal records
22 check conducted through the California Law Enforcement
23 Telecommunications System, the social worker shall ensure that
24 a fingerprint clearance check of the relative and any other person
25 whose criminal record was obtained pursuant to this subdivision
26 is initiated through the Department of Justice to ensure the accuracy
27 of the criminal records check conducted through the California
28 Law Enforcement Telecommunications System and shall review
29 the results of any criminal records check to assess the safety of the
30 home. The Department of Justice shall forward fingerprint requests
31 for federal-level criminal history information to the Federal Bureau
32 of Investigation pursuant to this section.

33 (2) An identification card from a foreign consulate or foreign
34 passport shall be considered a valid form of identification for
35 conducting a criminal-~~record~~ records check and fingerprint
36 clearance check under this subdivision and under subdivision (c).

37 (c) Whenever a child may be placed in the home of a relative,
38 or a prospective guardian or other person who is not a licensed or
39 certified foster parent, the county social worker shall cause a check
40 of the Child Abuse Central Index pursuant to subdivision (a) of

1 Section 11170 of the Penal Code to be requested from the
2 Department of Justice. The Child Abuse Central Index check shall
3 be conducted on all persons over 18 years of age living in the
4 home. For any application received on or after January 1, 2008, if
5 any person in the household is 18 years of age or older and has
6 lived in another state in the preceding five years, the county social
7 worker shall check the other state's child abuse and neglect registry
8 to the extent required by federal law.

9 (d) (1) If the results of the California and federal criminal
10 records check indicates that the person has no criminal record, the
11 county social worker and court may consider the home of the
12 relative, prospective guardian, or other person who is not a licensed
13 or certified foster parent for placement of a child.

14 (2) If the criminal records check indicates that the person has
15 been convicted of a crime that the Director of Social Services
16 cannot grant an exemption for under Section 1522 of the Health
17 and Safety Code, the child shall not be placed in the home. If the
18 criminal records check indicates that the person has been convicted
19 of a crime that the Director of Social Services may grant an
20 exemption for under Section 1522 of the Health and Safety Code,
21 the child shall not be placed in the home unless a criminal records
22 exemption has been granted by the county, based on substantial
23 and convincing evidence to support a reasonable belief that the
24 person with the criminal conviction is of such good character as
25 to justify the placement and not present a risk of harm to the child
26 pursuant to paragraph (3).

27 (3) (A) A county may issue a criminal records exemption only
28 if that county has been granted permission by the Director of Social
29 Services to issue criminal records exemptions. The county may
30 file a request with the Director of Social Services seeking
31 permission for the county to establish a procedure to evaluate and
32 grant appropriate individual criminal records exemptions for
33 persons described in subdivision (b). The director shall grant or
34 deny the county's request within 14 days of receipt. The county
35 shall evaluate individual criminal records in accordance with the
36 standards and limitations set forth in paragraph (1) of subdivision
37 (g) of Section 1522 of the Health and Safety Code, and in no event
38 shall the county place a child in the home of a person who is
39 ineligible for an exemption under that provision.

1 (B) The department shall monitor county implementation of the
2 authority to grant an exemption under this paragraph to ensure that
3 the county evaluates individual criminal records and allows or
4 disallows placements according to the standards set forth in
5 paragraph (1) of subdivision (g) of Section 1522 of the Health and
6 Safety Code.

7 (4) The department shall conduct an evaluation of the
8 implementation of paragraph (3) through random sampling of
9 county exemption decisions.

10 (5) The State Department of Social Services shall not evaluate
11 or grant criminal records exemption requests for persons described
12 in subdivision (b), unless the exemption request is made by an
13 Indian tribe pursuant to subdivision (f).

14 (6) If a county has not requested, or has not been granted,
15 permission by the State Department of Social Services to establish
16 a procedure to evaluate and grant criminal records exemptions,
17 the county shall not place a child into the home of a person
18 described in subdivision (b) if any person residing in the home has
19 been convicted of a crime other than a minor traffic violation,
20 except as provided in subdivision (f).

21 (e) Nothing in this section shall preclude a county from
22 conducting a criminal background check that the county is
23 otherwise authorized to conduct using fingerprints.

24 (f) Upon request from an Indian tribe, the State Department of
25 Social Services shall evaluate an exemption request, if needed, to
26 allow placement into an Indian home that the tribe has designated
27 for placement under the federal Indian Child Welfare Act (25
28 U.S.C. Sec. 1901 et seq.) that would otherwise be barred under
29 this section. However, if the county with jurisdiction over the child
30 that is the subject of the tribe's request has established an approved
31 procedure pursuant to paragraph (3) of subdivision (d), the tribe
32 may request that the county evaluate the exemption request. Once
33 a tribe has elected to have the exemption request reviewed by either
34 the State Department of Social Services or the county, the
35 exemption decision may only be made by that entity. Nothing in
36 this subdivision limits the duty of a county social worker to
37 evaluate the home for placement or to gather information needed
38 to evaluate an exemption request.

1 SEC. 9. Section 361.5 of the Welfare and Institutions Code,
2 as amended by Section 1 of Chapter 59 of the Statutes of 2011, is
3 amended to read:

4 361.5. (a) Except as provided in subdivision (b), or when the
5 parent has voluntarily relinquished the child and the relinquishment
6 has been filed with the State Department of Social Services, or
7 upon the establishment of an order of guardianship pursuant to
8 Section 360, whenever a child is removed from a parent's or
9 guardian's custody, the juvenile court shall order the social worker
10 to provide child welfare services to the child and the child's mother
11 and statutorily presumed father or guardians. Upon a finding and
12 declaration of paternity by the juvenile court or proof of a prior
13 declaration of paternity by any court of competent jurisdiction, the
14 juvenile court may order services for the child and the biological
15 father, if the court determines that the services will benefit the
16 child.

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

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

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

34 (C) For the purpose of placing and maintaining a sibling group
35 together in a permanent home should reunification efforts fail, for
36 a child in a sibling group whose members were removed from
37 parental custody at the same time, and in which one member of
38 the sibling group was under three years of age on the date of initial
39 removal from the physical custody of his or her parent or guardian,
40 court-ordered services for some or all of the sibling group may be

1 limited as set forth in subparagraph (B). For the purposes of this
2 paragraph, “a sibling group” shall mean two or more children who
3 are related to each other as full or half siblings.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

29 (B) Transportation services, where appropriate.

30 (C) Visitation services, where appropriate.

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

34 An incarcerated or detained parent may be required to attend
35 counseling, parenting classes, or vocational training programs as
36 part of the reunification service plan if actual access to these
37 services is provided. The social worker shall document in the
38 child's case plan the particular barriers to an incarcerated,
39 institutionalized, or detained parent's access to those

1 court-mandated services and ability to maintain contact with his
2 or her child.

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

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

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

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

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

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

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

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

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

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

1 persons even if the marriage was terminated by death or
2 dissolution.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

26 (j) When the court determines that reunification services will
27 not be ordered, it shall order that the child’s caregiver receive the
28 child’s birth certificate in accordance with Sections 16010.4 and
29 16010.5. Additionally, when the court determines that reunification
30 services will not be ordered, it shall order, when appropriate, that
31 a child who is 16 years of age or older receive his or her birth
32 certificate.

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

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

4 SEC. 10. Section 361.5 of the Welfare and Institutions Code,
5 as amended by Section 2 of Chapter 59 of the Statutes of 2011, is
6 amended to read:

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

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

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

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

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

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

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

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

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

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

22 (3) Notwithstanding subparagraphs (A), (B), and (C) of
23 paragraph (1), court-ordered services may be extended up to a
24 maximum time period not to exceed 18 months after the date the
25 child was originally removed from physical custody of his or her
26 parent or guardian if it can be shown, at the hearing held pursuant
27 to subdivision (f) of Section 366.21, that the permanent plan for
28 the child is that he or she will be returned and safely maintained
29 in the home within the extended time period. The court shall extend
30 the time period only if it finds that there is a substantial probability
31 that the child will be returned to the physical custody of his or her
32 parent or guardian within the extended time period or that
33 reasonable services have not been provided to the parent or
34 guardian. In determining whether court-ordered services may be
35 extended, the court shall consider the special circumstances of an
36 incarcerated or institutionalized parent or parents, parent or parents
37 court-ordered to a residential substance abuse treatment program,
38 or a parent who has been arrested and issued an immigration hold,
39 detained by the United States ~~Immigration and Customs~~
40 ~~Enforcement~~ *Department of Homeland Security*, or deported to

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

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

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

1 366.21 to determine whether to limit services to six months for
2 some or all members of a sibling group as described in
3 subparagraph (C) of paragraph (1).

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

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

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

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

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

9 (2) That the parent or guardian is suffering from a mental
10 disability that is described in Chapter 2 (commencing with Section
11 7820) of Part 4 of Division 12 of the Family Code and that renders
12 him or her incapable of utilizing those services.

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

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

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

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

34 A finding of severe sexual abuse, for the purposes of this
35 subdivision, may be based on, but is not limited to, sexual
36 intercourse, or stimulation involving genital-genital, oral-genital,
37 anal-genital, or oral-anal contact, whether between the parent or
38 guardian and the child or a sibling or half sibling of the child, or
39 between the child or a sibling or half sibling of the child and
40 another person or animal with the actual or implied consent of the

1 parent or guardian; or the penetration or manipulation of the
2 child's, sibling's, or half sibling's genital organs or rectum by any
3 animate or inanimate object for the sexual gratification of the
4 parent or guardian, or for the sexual gratification of another person
5 with the actual or implied consent of the parent or guardian.

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

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

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

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

36 (10) That the court ordered termination of reunification services
37 for any siblings or half siblings of the child because the parent or
38 guardian failed to reunify with the sibling or half sibling after the
39 sibling or half sibling had been removed from that parent or
40 guardian pursuant to Section 361 and that parent or guardian is

1 the same parent or guardian described in subdivision (a) and that,
2 according to the findings of the court, this parent or guardian has
3 not subsequently made a reasonable effort to treat the problems
4 that led to removal of the sibling or half sibling of that child from
5 that parent or guardian.

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

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

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

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

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

38 (15) That the parent or guardian has on one or more occasions
39 willfully abducted the child or child's sibling or half sibling from
40 his or her placement and refused to disclose the child's or child's

1 sibling's or half sibling's whereabouts, refused to return physical
2 custody of the child or child's sibling or half sibling to his or her
3 placement, or refused to return physical custody of the child or
4 child's sibling or half sibling to the social worker.

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

15 The court shall not order reunification for a parent or guardian
16 described in paragraph (3), (4), (6), (7), (8), (9), (10), (11), (12),
17 (13), (14), or (15) of subdivision (b) unless the court finds, by clear
18 and convincing evidence, that reunification is in the best interest
19 of the child.

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

31 The failure of the parent to respond to previous services, the fact
32 that the child was abused while the parent was under the influence
33 of drugs or alcohol, a past history of violent behavior, or testimony
34 by a competent professional that the parent's behavior is unlikely
35 to be changed by services are among the factors indicating that
36 reunification services are unlikely to be successful. The fact that
37 a parent or guardian is no longer living with an individual who
38 severely abused the child may be considered in deciding that
39 reunification services are likely to be successful, provided that the

1 court shall consider any pattern of behavior on the part of the parent
2 that has exposed the child to repeated abuse.

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

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

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

34 (B) Transportation services, where appropriate.

35 (C) Visitation services, where appropriate.

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

39 An incarcerated or detained parent may be required to attend
40 counseling, parenting classes, or vocational training programs as

1 part of the reunification service plan if actual access to these
2 services is provided. The social worker shall document in the
3 child's case plan the particular barriers to an incarcerated,
4 institutionalized, or detained parent's access to those
5 court-mandated services and ability to maintain contact with his
6 or her child.

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

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

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

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

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

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

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

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

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

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

1 persons even if the marriage was terminated by death or
2 dissolution.

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

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

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

23 (B) Regardless of his or her immigration status, a relative
24 caregiver shall be given information regarding the permanency
25 options of guardianship and adoption, including the long-term
26 benefits and consequences of each option, prior to establishing
27 legal guardianship or pursuing adoption.

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

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

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

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

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

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

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

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

15 (j) When the court determines that reunification services will
16 not be ordered, it shall order that the child's caregiver receive the
17 child's birth certificate in accordance with Sections 16010.4 and
18 16010.5. Additionally, when the court determines that reunification
19 services will not be ordered, it shall order, when appropriate, that
20 a child who is 16 years of age or older receive his or her birth
21 certificate.

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

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

29 SEC. 11. Section 366.21 of the Welfare and Institutions Code,
30 as amended by Section 3 of Chapter 59 of the Statutes of 2011, is
31 amended to read:

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

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

39 (c) At least 10 calendar days prior to the hearing, the social
40 worker shall file a supplemental report with the court regarding

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

37 (d) Prior to any hearing involving a child in the physical custody
38 of a community care facility or a foster family agency that may
39 result in the return of the child to the physical custody of his or
40 her parent or legal guardian, or in adoption or the creation of a

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

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

1 recommendations of any child advocate appointed pursuant to
2 Section 356.5; and shall consider the efforts or progress, or both,
3 demonstrated by the parent or legal guardian and the extent to
4 which he or she availed himself or herself to services provided,
5 taking into account the particular barriers to an incarcerated,
6 institutionalized, detained, or deported parent's or legal guardian's
7 access to those court-mandated services and ability to maintain
8 contact with his or her child.

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

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

36 For the purpose of placing and maintaining a sibling group
37 together in a permanent home, the court, in making its
38 determination to schedule a hearing pursuant to Section 366.26
39 for some or all members of a sibling group, as described in
40 subparagraph (C) of paragraph (1) of subdivision (a) of Section

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

18 If the child was removed initially under subdivision (g) of
19 Section 300 and the court finds by clear and convincing evidence
20 that the whereabouts of the parent are still unknown, or the parent
21 has failed to contact and visit the child, the court may schedule a
22 hearing pursuant to Section 366.26 within 120 days. The court
23 shall take into account any particular barriers to a parent’s ability
24 to maintain contact with his or her child due to the parent’s
25 incarceration, institutionalization, detention by the United States
26 ~~Immigration and Customs Enforcement~~ *Department of Homeland*
27 *Security*, or deportation. If the court finds by clear and convincing
28 evidence that the parent has been convicted of a felony indicating
29 parental unfitness, the court may schedule a hearing pursuant to
30 Section 366.26 within 120 days.

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

37 In all other cases, the court shall direct that any reunification
38 services previously ordered shall continue to be offered to the
39 parent or legal guardian pursuant to the time periods set forth in

1 subdivision (a) of Section 361.5, provided that the court may
2 modify the terms and conditions of those services.

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

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

1 detrimental. In making its determination, the court shall review
2 and consider the social worker's report and recommendations and
3 the report and recommendations of any child advocate appointed
4 pursuant to Section 356.5, shall consider the efforts or progress,
5 or both, demonstrated by the parent or legal guardian and the extent
6 to which he or she availed himself or herself of services provided,
7 taking into account the particular barriers to an incarcerated,
8 institutionalized, detained, or deported parent's or legal guardian's
9 access to those court-mandated services and ability to maintain
10 contact with his or her child and shall make appropriate findings
11 pursuant to subdivision (a) of Section 366.

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

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

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

1 parent or legal guardian and safely maintained in the home within
2 the extended period of time, the court shall be required to find all
3 of the following:

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

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

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

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

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

26 (2) Continue the case for up to six months for a permanency
27 review hearing, provided that the hearing shall occur within 18
28 months of the date the child was originally taken from the physical
29 custody of his or her parent or legal guardian, if the parent has
30 been arrested and issued an immigration hold, detained by the
31 United States ~~Immigration and Customs Enforcement~~ *Department*
32 *of Homeland Security*, or deported to his or her country of origin,
33 and the court determines that either the parent has made reasonable
34 efforts to regain custody of the child or that termination of parental
35 rights would be detrimental to the child.

36 The court may decide not to extend the case under this paragraph
37 if the child is under three years of age or is part of a sibling group
38 in which at least one child is under three years of age and the
39 siblings are, or should be, permanently placed together.

1 (3) A court shall not grant an extension under paragraph (2) if
2 any of the following factors are present:

3 (A) The child is an abandoned infant.

4 (B) The parent has been accused of murder or voluntary
5 manslaughter of another child of the parent, or has been accused
6 of felony assault against this child or another child of the parent.

7 (C) Any other circumstance under subdivision (b) of Section
8 361.5 or federal law permits the court not to order reunification
9 services.

10 (4) Order that a hearing be held within 120 days, pursuant to
11 Section 366.26, but only if the court does not continue the case to
12 the permanency planning review hearing and there is clear and
13 convincing evidence that reasonable services have been provided
14 or offered to the parents or legal guardians. On and after January
15 1, 2012, a hearing pursuant to Section 366.26 shall not be ordered
16 if the child is a nonminor dependent.

17 (5) Order that the child remain in long-term foster care, but only
18 if the court finds by clear and convincing evidence, based upon
19 the evidence already presented to it, including a recommendation
20 by the State Department of Social Services when it is acting as an
21 adoption agency in counties that are not served by a county
22 adoption agency or by a licensed county adoption agency, that
23 there is a compelling reason for determining that a hearing held
24 pursuant to Section 366.26 is not in the best interest of the child
25 because the child is not a proper subject for adoption and has no
26 one willing to accept legal guardianship. For purposes of this
27 section, a recommendation by the State Department of Social
28 Services when it is acting as an adoption agency in counties that
29 are not served by a county adoption agency or by a licensed county
30 adoption agency that adoption is not in the best interest of the child
31 shall constitute a compelling reason for the court's determination.
32 That recommendation shall be based on the present circumstances
33 of the child and shall not preclude a different recommendation at
34 a later date if the child's circumstances change. On and after
35 January 1, 2012, the nonminor dependent's legal status as an adult
36 is in and of itself a compelling reason not to hold a hearing pursuant
37 to Section 366.26. The court may order that a nonminor dependent
38 who otherwise is eligible pursuant to Section 11403 remain in a
39 planned, permanent living arrangement.

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

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

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

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

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

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

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

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

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

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

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

39 (H) In the case of an Indian child, in addition to subparagraphs
40 (A) to (G), inclusive, an assessment of the likelihood that the child

1 will be adopted, when, in consultation with the child’s tribe, a
2 customary tribal adoption, as defined in Section 366.24, is
3 recommended. If tribal customary adoption is recommended, the
4 assessment shall include an analysis of both of the following:

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

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

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

17 (B) Regardless of his or her immigration status, a relative
18 caregiver shall be given information regarding the permanency
19 options of guardianship and adoption, including the long-term
20 benefits and consequences of each option, prior to establishing
21 legal guardianship or pursuing adoption.

22 (j) If, at any hearing held pursuant to Section 366.26, a
23 guardianship is established for the minor with an approved relative
24 caregiver, and juvenile court dependency is subsequently
25 dismissed, the minor shall be eligible for aid under the Kin-GAP
26 Program, as provided for in Article 4.5 (commencing with Section
27 11360) or Article 4.7 (commencing with Section 11385), as
28 applicable, of Chapter 2 of Part 3 of Division 9.

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

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

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

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

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

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

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

13 SEC. 12. Section 366.21 of the Welfare and Institutions Code,
14 as amended by Section 4 of Chapter 59 of the Statutes of 2011, is
15 amended to read:

16 366.21. (a) Every hearing conducted by the juvenile court
17 reviewing the status of a dependent child shall be placed on the
18 appearance calendar. The court shall advise all persons present at
19 the hearing of the date of the future hearing and of their right to
20 be present and represented by counsel.

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

23 (c) At least 10 calendar days prior to the hearing, the social
24 worker shall file a supplemental report with the court regarding
25 the services provided or offered to the parent or legal guardian to
26 enable him or her to assume custody and the efforts made to
27 achieve legal permanence for the child if efforts to reunify fail,
28 including, but not limited to, efforts to maintain relationships
29 between a child who is 10 years of age or older and has been in
30 out-of-home placement for six months or longer and individuals
31 who are important to the child, consistent with the child's best
32 interests; the progress made; and, where relevant, the prognosis
33 for return of the child to the physical custody of his or her parent
34 or legal guardian; and shall make his or her recommendation for
35 disposition. If the child is a member of a sibling group described
36 in subparagraph (C) of paragraph (1) of subdivision (a) of Section
37 361.5, the report and recommendation may also take into account
38 those factors described in subdivision (e) relating to the child's
39 sibling group. If the recommendation is not to return the child to
40 a parent or legal guardian, the report shall specify why the return

1 of the child would be detrimental to the child. The social worker
2 shall provide the parent or legal guardian, counsel for the child,
3 and any court-appointed child advocate with a copy of the report,
4 including his or her recommendation for disposition, at least 10
5 calendar days prior to the hearing. In the case of a child removed
6 from the physical custody of his or her parent or legal guardian,
7 the social worker shall, at least 10 calendar days prior to the
8 hearing, provide a summary of his or her recommendation for
9 disposition to any foster parents, relative caregivers, and certified
10 foster parents who have been approved for adoption by the State
11 Department of Social Services when it is acting as an adoption
12 agency in counties that are not served by a county adoption agency
13 or by a licensed county adoption agency, community care facility,
14 or foster family agency having the physical custody of the child.
15 The social worker shall include a copy of the Judicial Council
16 Caregiver Information Form (JV-290) with the summary of
17 recommendations to the child's foster parents, relative caregivers,
18 or foster parents approved for adoption, in the caregiver's primary
19 language when available, along with information on how to file
20 the form with the court.

21 (d) Prior to any hearing involving a child in the physical custody
22 of a community care facility or a foster family agency that may
23 result in the return of the child to the physical custody of his or
24 her parent or legal guardian, or in adoption or the creation of a
25 legal guardianship, the facility or agency shall file with the court
26 a report, or a Judicial Council Caregiver Information Form
27 (JV-290), containing its recommendation for disposition. Prior to
28 the hearing involving a child in the physical custody of a foster
29 parent, a relative caregiver, or a certified foster parent who has
30 been approved for adoption by the State Department of Social
31 Services when it is acting as an adoption agency or by a licensed
32 adoption agency, the foster parent, relative caregiver, or the
33 certified foster parent who has been approved for adoption by the
34 State Department of Social Services when it is acting as an
35 adoption agency in counties that are not served by a county
36 adoption agency or by a licensed county adoption agency, may
37 file with the court a report containing his or her recommendation
38 for disposition. The court shall consider the report and
39 recommendation filed pursuant to this subdivision prior to
40 determining any disposition.

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

32 Regardless of whether the child is returned to a parent or legal
33 guardian, the court shall specify the factual basis for its conclusion
34 that the return would be detrimental or would not be detrimental.
35 The court also shall make appropriate findings pursuant to
36 subdivision (a) of Section 366; and, where relevant, shall order
37 any additional services reasonably believed to facilitate the return
38 of the child to the custody of his or her parent or legal guardian.
39 The court shall also inform the parent or legal guardian that if the
40 child cannot be returned home by the 12-month permanency

1 hearing, a proceeding pursuant to Section 366.26 may be instituted.
2 This section does not apply in a case where, pursuant to Section
3 361.5, the court has ordered that reunification services shall not
4 be provided.

5 If the child was under three years of age on the date of the initial
6 removal, or is a member of a sibling group described in
7 subparagraph (C) of paragraph (1) of subdivision (a) of Section
8 361.5, and the court finds by clear and convincing evidence that
9 the parent failed to participate regularly and make substantive
10 progress in a court-ordered treatment plan, the court may schedule
11 a hearing pursuant to Section 366.26 within 120 days. If, however,
12 the court finds there is a substantial probability that the child, who
13 was under three years of age on the date of initial removal or is a
14 member of a sibling group described in subparagraph (C) of
15 paragraph (1) of subdivision (a) of Section 361.5, may be returned
16 to his or her parent or legal guardian within six months or that
17 reasonable services have not been provided, the court shall continue
18 the case to the 12-month permanency hearing.

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

1 If the child was removed initially under subdivision (g) of
2 Section 300 and the court finds by clear and convincing evidence
3 that the whereabouts of the parent are still unknown, or the parent
4 has failed to contact and visit the child, the court may schedule a
5 hearing pursuant to Section 366.26 within 120 days. The court
6 shall take into account any particular barriers to a parent's ability
7 to maintain contact with his or her child due to the parent's
8 incarceration, institutionalization, detention by the United States
9 ~~Immigration and Customs Enforcement~~ *Department of Homeland*
10 *Security*, or deportation. If the court finds by clear and convincing
11 evidence that the parent has been convicted of a felony indicating
12 parental unfitness, the court may schedule a hearing pursuant to
13 Section 366.26 within 120 days.

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

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

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

32 (f) The permanency hearing shall be held no later than 12
33 months after the date the child entered foster care, as that date is
34 determined pursuant to Section 361.49. At the permanency hearing,
35 the court shall determine the permanent plan for the child, which
36 shall include a determination of whether the child will be returned
37 to the child's home and, if so, when, within the time limits of
38 subdivision (a) of Section 361.5. The court shall order the return
39 of the child to the physical custody of his or her parent or legal
40 guardian unless the court finds, by a preponderance of the evidence,

1 that the return of the child to his or her parent or legal guardian
2 would create a substantial risk of detriment to the safety, protection,
3 or physical or emotional well-being of the child. The social worker
4 shall have the burden of establishing that detriment. At the
5 permanency hearing, the court shall consider the criminal history,
6 obtained pursuant to paragraph (1) of subdivision (f) of Section
7 16504.5, of the parent or legal guardian subsequent to the child's
8 removal to the extent that the criminal record is substantially related
9 to the welfare of the child or the parent or legal guardian's ability
10 to exercise custody and control regarding his or her child, provided
11 that the parent or legal guardian agreed to submit fingerprint images
12 to obtain criminal history information as part of the case plan. The
13 court shall also determine whether reasonable services that were
14 designed to aid the parent or legal guardian to overcome the
15 problems that led to the initial removal and continued custody of
16 the child have been provided or offered to the parent or legal
17 guardian. For each youth 16 years of age and older, the court shall
18 also determine whether services have been made available to assist
19 him or her in making the transition from foster care to independent
20 living. The failure of the parent or legal guardian to participate
21 regularly and make substantive progress in court-ordered treatment
22 programs shall be prima facie evidence that return would be
23 detrimental. In making its determination, the court shall review
24 and consider the social worker's report and recommendations and
25 the report and recommendations of any child advocate appointed
26 pursuant to Section 356.5, shall consider the efforts or progress,
27 or both, demonstrated by the parent or legal guardian and the extent
28 to which he or she availed himself or herself of services provided,
29 taking into account the particular barriers to an incarcerated,
30 institutionalized, detained, or deported parent's or legal guardian's
31 access to those court-mandated services and ability to maintain
32 contact with his or her child and shall make appropriate findings
33 pursuant to subdivision (a) of Section 366.

34 Regardless of whether the child is returned to his or her parent
35 or legal guardian, the court shall specify the factual basis for its
36 decision. If the child is not returned to a parent or legal guardian,
37 the court shall specify the factual basis for its conclusion that the
38 return would be detrimental. The court also shall make a finding
39 pursuant to subdivision (a) of Section 366. If the child is not
40 returned to his or her parent or legal guardian, the court shall

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

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

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

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

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

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

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

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

8 (2) Continue the case for up to six months for a permanency
9 review hearing, provided that the hearing shall occur within 18
10 months of the date the child was originally taken from the physical
11 custody of his or her parent or legal guardian, if the parent has
12 been arrested and issued an immigration hold, has been detained
13 by the United States ~~Immigration and Customs Enforcement~~
14 *Department of Homeland Security*, or has been deported to his or
15 her country of origin, and the court determines either that the parent
16 has made reasonable efforts to regain custody of the child or that
17 termination of parental rights would be detrimental to the child.

18 The court may decide not to extend the case under this paragraph
19 if the child is under three years of age or is part of a sibling group
20 in which at least one child is under three years of age and the
21 siblings are, or should be, permanently placed together.

22 (3) A court shall not grant an extension under paragraph (2) if
23 any of the following factors are present:

24 (A) The child is an abandoned infant.

25 (B) The parent has been accused of murder or voluntary
26 manslaughter of another child of the parent, or has been accused
27 of felony assault against this child or another child of the parent.

28 (C) Any other circumstance under subdivision (b) of Section
29 361.5 or federal law that permits the court not to order reunification
30 services.

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

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

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

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

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

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

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

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

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

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

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

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

37 (E) The relationship of the child to any identified prospective
38 adoptive parent or legal guardian, the duration and character of
39 the relationship, the degree of attachment of the child to the
40 prospective relative guardian or adoptive parent, the relative’s or

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

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

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

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

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

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

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

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

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

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

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

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

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

16 SEC. 13. Section 366.215 of the Welfare and Institutions Code
17 is amended to read:

18 366.215. With respect to a hearing held pursuant to subdivision
19 (e) of Section 366.21, if the child in question was under three years
20 of age on the date of the initial removal, or is a member of a sibling
21 group described in subparagraph (C) of paragraph (1) of
22 subdivision (a) of Section 361.5, the court, in determining whether
23 to schedule a hearing pursuant to Section 366.26, shall take into
24 account any particular barriers to a parent’s ability to maintain
25 contact with his or her child due to the parent’s incarceration,
26 institutionalization, detention by the United States ~~Immigration~~
27 ~~and Customs Enforcement~~ *Department of Homeland Security*, or
28 deportation.

29 SEC. 14. Section 366.22 of the Welfare and Institutions Code,
30 as amended by Section 18 of Chapter 559 of the Statutes of 2010,
31 is amended to read:

32 366.22. (a) When a case has been continued pursuant to
33 paragraph (1) or (2) of subdivision (g) of Section 366.21, the
34 permanency review hearing shall occur within 18 months after the
35 date the child was originally removed from the physical custody
36 of his or her parent or legal guardian. The court shall order the
37 return of the child to the physical custody of his or her parent or
38 legal guardian unless the court finds, by a preponderance of the
39 evidence, that the return of the child to his or her parent or legal
40 guardian would create a substantial risk of detriment to the safety,

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

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

35 Unless the conditions in subdivision (b) are met and the child is
36 not returned to a parent or legal guardian at the permanency review
37 hearing, the court shall order that a hearing be held pursuant to
38 Section 366.26 in order to determine whether adoption, or, in the
39 case of an Indian child, in consultation with the child's tribe, tribal
40 customary adoption, guardianship, or long-term foster care is the

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

- 36 (1) The child has been placed with a foster family that is eligible
37 to adopt a child, or has been placed in a preadoptive home.
- 38 (2) The case plan includes services to make and finalize a
39 permanent placement for the child if efforts to reunify fail.

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

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

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

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

35 (3) The parent or legal guardian has demonstrated the capacity
36 and ability both to complete the objectives of his or her substance
37 abuse treatment plan as evidenced by reports from a substance
38 abuse provider as applicable, or complete a treatment plan
39 postdischarge from incarceration, institutionalization, or detention,
40 or following his or her return to the United States following

1 deportation to his or her country of origin, and to provide for the
2 child's safety, protection, physical and emotional well-being, and
3 special needs.

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

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

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

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

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

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

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

1 relative of the minor, the assessment shall also consider, but need
2 not be limited to, all of the factors specified in subdivision (a) of
3 Section 361.3 and Section 361.4.

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

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

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

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

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

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

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

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

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

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

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

22 SEC. 15. Section 366.22 of the Welfare and Institutions Code,
23 as amended by Section 19 of Chapter 559 of the Statutes of 2010,
24 is amended to read:

25 366.22. (a) When a case has been continued pursuant to
26 paragraph (1) or (2) of subdivision (g) of Section 366.21, the
27 permanency review hearing shall occur within 18 months after the
28 date the child was originally removed from the physical custody
29 of his or her parent or legal guardian. The court shall order the
30 return of the child to the physical custody of his or her parent or
31 legal guardian unless the court finds, by a preponderance of the
32 evidence, that the return of the child to his or her parent or legal
33 guardian would create a substantial risk of detriment to the safety,
34 protection, or physical or emotional well-being of the child. The
35 social worker shall have the burden of establishing that detriment.
36 At the permanency review hearing, the court shall consider the
37 criminal history, obtained pursuant to paragraph (1) of subdivision
38 (f) of Section 16504.5, of the parent or legal guardian subsequent
39 to the child’s removal, to the extent that the criminal record is
40 substantially related to the welfare of the child or the parent’s or

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

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

28 Unless the conditions in subdivision (b) are met and the child is
29 not returned to a parent or legal guardian at the permanency review
30 hearing, the court shall order that a hearing be held pursuant to
31 Section 366.26 in order to determine whether adoption,
32 guardianship, or long-term foster care is the most appropriate plan
33 for the child. On and after January 1, 2012, a hearing pursuant to
34 Section 366.26 shall not be ordered if the child is a nonminor
35 dependent. However, if the court finds by clear and convincing
36 evidence, based on the evidence already presented to it, including
37 a recommendation by the State Department of Social Services
38 when it is acting as an adoption agency in counties that are not
39 served by a county adoption agency or by a licensed county
40 adoption agency, that there is a compelling reason, as described

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

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

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

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

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

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

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

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

26 (3) The parent or legal guardian has demonstrated the capacity
27 and ability both to complete the objectives of his or her substance
28 abuse treatment plan as evidenced by reports from a substance
29 abuse provider as applicable, or complete a treatment plan
30 postdischarge from incarceration, institutionalization, detention,
31 or his or her return to the United States following deportation to
32 his or her country of origin, and to provide for the child's safety,
33 protection, physical and emotional well-being, and special needs.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

38 SEC. 16. Section 366.25 of the Welfare and Institutions Code,
39 as amended by Section 20 of Chapter 559 of the Statutes of 2010,
40 is amended to read:

1 366.25. (a) (1) When a case has been continued pursuant to
2 subdivision (b) of Section 366.22, the subsequent permanency
3 review hearing shall occur within 24 months after the date the
4 child was originally removed from the physical custody of his or
5 her parent or legal guardian. The court shall order the return of the
6 child to the physical custody of his or her parent or legal guardian
7 unless the court finds, by a preponderance of the evidence, that
8 the return of the child to his or her parent or legal guardian would
9 create a substantial risk of detriment to the safety, protection, or
10 physical or emotional well-being of the child. The social worker
11 shall have the burden of establishing that detriment. At the
12 subsequent permanency review hearing, the court shall consider
13 the criminal history, obtained pursuant to paragraph (1) of
14 subdivision (f) of Section 16504.5, of the parent or legal guardian
15 subsequent to the child's removal to the extent that the criminal
16 record is substantially related to the welfare of the child or parent
17 or legal guardian's ability to exercise custody and control regarding
18 his or her child provided that the parent or legal guardian agreed
19 to submit fingerprint images to obtain criminal history information
20 as part of the case plan. The failure of the parent or legal guardian
21 to participate regularly and make substantive progress in
22 court-ordered treatment programs shall be prima facie evidence
23 that return would be detrimental. In making its determination, the
24 court shall review and consider the social worker's report and
25 recommendations and the report and recommendations of any child
26 advocate appointed pursuant to Section 356.5; shall consider the
27 efforts or progress, or both, demonstrated by the parent or legal
28 guardian and the extent to which he or she availed himself or
29 herself of services provided; and shall make appropriate findings
30 pursuant to subdivision (a) of Section 366.

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

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

1 of the following circumstances shall not, in and of themselves, be
2 deemed a failure to provide or offer reasonable services:

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

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

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

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

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

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

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

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

37 (E) The relationship of the child to any identified prospective
38 adoptive parent or legal guardian, including a prospective tribal
39 customary adoptive parent, the duration and character of the
40 relationship, the degree of attachment of the child to the prospective

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

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

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

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

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

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

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

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

1 11360) or Article 4.7 (commencing with Section 11385), as
2 applicable, of Chapter 2 of Part 3 of Division 9.

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

9 (e) The implementation and operation of subdivision (a) enacted
10 at the 2005–06 Regular Session shall be subject to appropriation
11 through the budget process and by phase, as provided in Section
12 366.35.

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

16 SEC. 17. Section 366.25 of the Welfare and Institutions Code,
17 as amended by Section 21 of Chapter 559 of the Statutes of 2010,
18 is amended to read:

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

1 that return would be detrimental. In making its determination, the
2 court shall review and consider the social worker's report and
3 recommendations and the report and recommendations of any child
4 advocate appointed pursuant to Section 356.5; shall consider the
5 efforts or progress, or both, demonstrated by the parent or legal
6 guardian and the extent to which he or she availed himself or
7 herself of services provided; and shall make appropriate findings
8 pursuant to subdivision (a) of Section 366.

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

19 (3) If the child is not returned to a parent or legal guardian at
20 the subsequent permanency review hearing, the court shall order
21 that a hearing be held pursuant to Section 366.26 in order to
22 determine whether adoption, guardianship, or long-term foster
23 care is the most appropriate plan for the child. On and after January
24 1, 2012, a hearing pursuant to Section 366.26 shall not be ordered
25 if the child is a nonminor dependent. However, if the court finds
26 by clear and convincing evidence, based on the evidence already
27 presented to it, including a recommendation by the State
28 Department of Social Services when it is acting as an adoption
29 agency in counties that are not served by a county adoption agency
30 or by a licensed county adoption agency, that there is a compelling
31 reason, as described in paragraph (5) of subdivision (g) of Section
32 366.21, for determining that a hearing held under Section 366.26
33 is not in the best interest of the child because the child is not a
34 proper subject for adoption and has no one willing to accept legal
35 guardianship, then the court may, only under these circumstances,
36 order that the child remain in long-term foster care. On and after
37 January 1, 2012, the nonminor dependent's legal status as an adult
38 is in and of itself a compelling reason not to hold a hearing pursuant
39 to Section 366.26. The court may order that a nonminor dependent
40 who otherwise is eligible pursuant to Section 11403 remain in a

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 11360) or Article 4.7 (commencing with Section 11385), as
2 applicable, of Chapter 2 of Part 3 of Division 9.

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

9 (e) The implementation and operation of subdivision (a) enacted
10 at the 2005–06 Regular Session shall be subject to appropriation
11 through the budget process and by phase, as provided in Section
12 366.35.

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

14 SEC. 18. Section 366.27 of the Welfare and Institutions Code
15 is amended to read:

16 366.27. (a) If a court, pursuant to paragraph (5) of subdivision
17 (g) of Section 366.21, Section 366.22, Section 366.25, or Section
18 366.26, orders the placement of a minor in a planned permanent
19 living arrangement with a relative, the court may authorize the
20 relative to provide the same legal consent for the minor’s medical,
21 surgical, and dental care as the custodial parent of the minor.

22 (b) If a court orders the placement of a minor in a planned
23 permanent living arrangement with a foster parent, relative
24 caretaker, or nonrelative extended family member as defined in
25 Section 362.7, the court may limit the right of the minor’s parent
26 or guardian to make educational decisions on the minor’s behalf,
27 so that the foster parent, relative caretaker, or nonrelative extended
28 family member may exercise the educational consent duties
29 pursuant to Section 56055 of the Education Code.

30 (c) If a court orders the placement of a minor in a planned
31 permanent living arrangement, for purposes of this section, a foster
32 parent shall include a person, relative caretaker, or a nonrelative
33 extended family member as defined in Section 362.7, who has
34 been licensed or approved by the county welfare department,
35 county probation department, or the State Department of Social
36 Services, or has been designated by the court as a specified
37 placement.

38 SEC. 19. Section 388 of the Welfare and Institutions Code is
39 amended to read:

1 388. (a) Any parent or other person having an interest in a
2 child who is a dependent child of the juvenile court or the child
3 himself or herself through a properly appointed guardian may,
4 upon grounds of change of circumstance or new evidence, petition
5 the court in the same action in which the child was found to be a
6 dependent child of the juvenile court or in which a guardianship
7 was ordered pursuant to Section 360 for a hearing to change,
8 modify, or set aside any order of court previously made or to
9 terminate the jurisdiction of the court. The petition shall be verified
10 and, if made by a person other than the child, shall state the
11 petitioner's relationship to or interest in the child and shall set forth
12 in concise language any change of circumstance or new evidence
13 that is alleged to require the change of order or termination of
14 jurisdiction.

15 (b) Any person, including a child who is a dependent of the
16 juvenile court, may petition the court to assert a relationship as a
17 sibling related by blood, adoption, or affinity through a common
18 legal or biological parent to a child who is, or is the subject of a
19 petition for adjudication as, a dependent of the juvenile court, and
20 may request visitation with the dependent child, placement with
21 or near the dependent child, or consideration when determining
22 or implementing a case plan or permanent plan for the dependent
23 child or make any other request for an order which may be shown
24 to be in the best interest of the dependent child. The court may
25 appoint a guardian ad litem to file the petition for the dependent
26 child asserting the sibling relationship if the court determines that
27 the appointment is necessary for the best interests of the dependent
28 child. The petition shall be verified and shall set forth the
29 following:

30 (1) Through which parent he or she is related to the dependent
31 child.

32 (2) Whether he or she is related to the dependent child by blood,
33 adoption, or affinity.

34 (3) The request or order that the petitioner is seeking.

35 (4) Why that request or order is in the best interest of the
36 dependent child.

37 (c) (1) Any party, including a child who is a dependent of the
38 juvenile court, may petition the court, prior to the hearing set
39 pursuant to subdivision (f) of Section 366.21 for a child described
40 by subparagraph (A) of paragraph (1) of subdivision (a) of Section

1 361.5, or prior to the hearing set pursuant to subdivision (e) of
2 Section 366.21 for a child described by subparagraph (B) or (C)
3 of paragraph (1) of subdivision (a) of Section 361.5, to terminate
4 court-ordered reunification services provided under subdivision
5 (a) of Section 361.5 only if one of the following conditions exists:
6 (A) It appears that a change of circumstance or new evidence
7 exists that satisfies a condition set forth in subdivision (b) or (e)
8 of Section 361.5 justifying termination of court-ordered
9 reunification services.
10 (B) The action or inaction of the parent or guardian creates a
11 substantial likelihood that reunification will not occur, including,
12 but not limited to, the parent or guardian’s failure to visit the child,
13 or the failure of the parent or guardian to participate regularly and
14 make substantive progress in a court-ordered treatment plan.
15 (2) In determining whether the parent or guardian has failed to
16 visit the child or participate regularly or make progress in the
17 treatment plan, the court shall consider factors including, but not
18 limited to, the parent’s or guardian’s incarceration,
19 institutionalization, detention by the United States ~~Immigration~~
20 ~~and Customs Enforcement~~ *Department of Homeland Security*,
21 deportation, or participation in a court-ordered residential substance
22 abuse treatment program.
23 (3) The court shall terminate reunification services during the
24 above-described time periods only upon a finding by a
25 preponderance of evidence that reasonable services have been
26 offered or provided, and upon a finding of clear and convincing
27 evidence that one of the conditions in subparagraph (A) or (B) of
28 paragraph (1) exists.
29 (4) If the court terminates reunification services, it shall order
30 that a hearing pursuant to Section 366.26 be held within 120 days.
31 (d) If it appears that the best interests of the child may be
32 promoted by the proposed change of order, recognition of a sibling
33 relationship, termination of jurisdiction, or clear and convincing
34 evidence supports revocation or termination of court-ordered
35 reunification services, the court shall order that a hearing be held
36 and shall give prior notice, or cause prior notice to be given, to the
37 persons and by the means prescribed by Section 386, and, in those
38 instances in which the means of giving notice is not prescribed by
39 those sections, then by means the court prescribes.

1 (e) (1) On and after January 1, 2012, a nonminor who attained
2 18 years of age while subject to an order for foster care placement
3 and, commencing January 1, 2012, who has not attained 19 years
4 of age, or, commencing January 1, 2013, 20 years of age, or,
5 commencing January 1, 2014, 21 years of age, for whom the court
6 has dismissed dependency jurisdiction pursuant to Section 391, or
7 delinquency jurisdiction pursuant to Section 607.2 or transition
8 jurisdiction pursuant to Section 452, but has retained general
9 jurisdiction under subdivision (b) of Section 303, or the county
10 child welfare services, probation department, or tribal placing
11 agency on behalf of the nonminor, may petition the court in the
12 same action in which the child was found to be a dependent or
13 delinquent child of the juvenile court, for a hearing to resume the
14 dependency jurisdiction over a former dependent or to assume or
15 resume transition jurisdiction over a former delinquent ward
16 pursuant to Section 450. The petition shall be filed within the
17 period that the nonminor is of the age described in this paragraph.
18 If the nonminor has completed the voluntary reentry agreement,
19 as described in subdivision (z) of Section 11400, with the placing
20 agency, the agency shall file the petition on behalf of the nonminor
21 within 15 judicial days of the date the agreement was signed unless
22 the nonminor elects to file the petition at an earlier date.

23 (2) (A) The petition to resume jurisdiction may be filed in the
24 juvenile court that retains general jurisdiction under subdivision
25 (b) of Section 303, or the petition may be submitted to the juvenile
26 court in the county where the youth resides and forwarded to the
27 juvenile court that retained general jurisdiction and filed with that
28 court. The juvenile court having general jurisdiction under Section
29 303 shall receive the petition from the court where the petition
30 was submitted within five court days of its submission, if the
31 petition is filed in the county of residence. The juvenile court that
32 retained general jurisdiction shall order that a hearing be held
33 within 15 judicial days of the date the petition was filed if there is
34 a prima facie showing that the nonminor satisfies the following
35 criteria:

36 (i) He or she was previously under juvenile court jurisdiction,
37 subject to an order for foster care placement when he or she
38 attained 18 years of age, and has not attained the age limits
39 described in paragraph (1).

1 (ii) He or she intends to satisfy at least one of the conditions set
2 forth in paragraphs (1) to (5), inclusive, of subdivision (b) of
3 Section 11403.

4 (iii) He or she wants assistance either in maintaining or securing
5 appropriate supervised placement, or is in need of immediate
6 placement and agrees to supervised placement pursuant to the
7 voluntary reentry agreement as described in subdivision (z) of
8 Section 11400.

9 (B) Upon ordering a hearing, the court shall give prior notice,
10 or cause prior notice to be given, to the persons and by the means
11 prescribed by Section 386, except that notice to parents or former
12 guardians shall not be provided unless the nonminor requests, in
13 writing on the face of the petition, notice to the parents or former
14 guardians.

15 (3) The Judicial Council, by January 1, 2012, shall adopt rules
16 of court to allow for telephonic appearances by nonminor former
17 dependents or delinquents in these proceedings, and for telephonic
18 appearances by nonminor dependents in any proceeding in which
19 the nonminor dependent is a party, and he or she declines to appear
20 and elects a telephonic appearance.

21 (4) Prior to the hearing on a petition to resume dependency
22 jurisdiction or to assume or resume transition jurisdiction, the court
23 shall order the county child welfare or probation department or
24 Indian tribe that has entered into an agreement pursuant to Section
25 10553.1 to prepare a report for the court addressing whether the
26 nonminor intends to satisfy at least one of the criteria set forth in
27 subdivision (b) of Section 11403. When the recommendation is
28 for the nonminor dependent to be placed in a setting where minor
29 dependents also reside, the results of a background check of the
30 petitioning nonminor conducted pursuant to Section 16504.5, used
31 by the placing agency to determine appropriate placement options
32 for the nonminor. The existence of a criminal conviction is not a
33 bar to eligibility for reentry or resumption of dependency
34 jurisdiction or the assumption or resumption of transition
35 jurisdiction over a nonminor.

36 (5) (A) The court shall resume dependency jurisdiction over a
37 former dependent or assume or resume transition jurisdiction over
38 a former delinquent ward pursuant to Section 450, and order that
39 the nonminor's placement and care be under the responsibility of

1 the county child welfare services department, the probation
2 department, or tribe, if the court finds all of the following:

3 (i) The nonminor was previously under juvenile court
4 jurisdiction subject to an order for foster care placement when he
5 or she attained 18 years of age.

6 (ii) The nonminor has not attained the age limits described in
7 paragraph (1).

8 (iii) Reentry and remaining in foster care are in the nonminor's
9 best interests.

10 (iv) The nonminor intends to satisfy, and agrees to satisfy, at
11 least one of the criteria set forth in paragraphs (1) to (5), inclusive,
12 of subdivision (b) of Section 11403, or demonstrates his or her
13 agreement to satisfy the criteria by signing the voluntary reentry
14 agreement as described in subdivision (z) of Section 11400.

15 (B) The agency made responsible for the nonminor's placement
16 and care pursuant to subparagraph (A) shall prepare a new
17 transitional independent living case plan and submit it to the court
18 within 60 days of the resumption of dependency jurisdiction or
19 assumption or resumption of transition jurisdiction.

20 (C) In no event shall the court grant a continuance that would
21 cause the hearing to resume dependency jurisdiction or to assume
22 or resume transition jurisdiction to be completed more than 120
23 days after the date the petition was submitted.

24 SEC. 20. Section 10609.95 is added to the Welfare and
25 Institutions Code, to read:

26 10609.95. (a) The State Department of Social Services shall
27 provide guidance to counties and municipalities, *no later than July*
28 *1, 2013*, to establish memoranda of understanding with appropriate
29 foreign consulates for child custody cases in which a parent has
30 been arrested and issued an immigration hold, has been detained
31 by the United States ~~Immigration and Customs Enforcement~~
32 *Department of Homeland Security*, or has been deported to his or
33 her country of origin.

34 (b) The memoranda of understanding shall include, *but shall*
35 *not be limited to*, procedures for contacting a foreign consulate ~~in~~
36 *at the onset of* a child custody case, accessing documentation for
37 the child, locating a detained parent, facilitating family
38 reunification once a parent has been deported to his or her country
39 of origin, *aiding the safe transfer of a child to the parent's country*
40 *of origin*, and communicating with relevant departments and

1 services in the parent's country of origin, *including, when*
2 *appropriate, allowing reports from the foreign child welfare*
3 *authorities documenting the parent's living situation and the*
4 *parent's participation in service plans in the country of origin that*
5 *are in compliance with the case plan requirements.*

6 (c) The memoranda of understanding shall require a county or
7 municipality to contact a foreign consulate for assistance in
8 obtaining necessary documents if a child in a child custody case
9 is eligible for special immigrant juvenile status under Section
10 1101(a)(27)(J) of Title 8 of the United States Code.

11 SEC. 21. Section 10609.97 is added to the Welfare and
12 Institutions Code, to read:

13 10609.97. (a) The State Department of Social Services shall
14 provide guidelines to counties and municipalities, *no later than*
15 *July 1, 2013*, detailing procedures for social workers to assist
16 children in child custody and dependency cases who are eligible
17 for special immigrant juvenile status under Section 1101(a)(27)(J)
18 of Title 8 of the United States Code *and any other form of relief*
19 *available under any immigration law.*

20 (b) The guidelines shall include procedures for assisting eligible
21 children in applying for special immigrant juvenile status *and any*
22 *other form of relief available under any immigration law* before
23 the children reach 21 years of age *or get married.*

24 SEC. 22. Section 16501.1 of the Welfare and Institutions Code
25 is amended to read:

26 16501.1. (a) (1) The Legislature finds and declares that the
27 foundation and central unifying tool in child welfare services is
28 the case plan.

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

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

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

4 (3) Upon a determination pursuant to paragraph (1) of
5 subdivision (e) of Section 361.5 that reasonable services will be
6 offered to a parent who is incarcerated in a county jail or state
7 prison, detained by the United States ~~Immigration and Customs~~
8 ~~Enforcement~~ *Department of Homeland Security*, or deported to
9 his or her country of origin, the case plan shall include information,
10 to the extent possible, about a parent's incarceration in a county
11 jail or the state prison, detention by the United States ~~Immigration~~
12 ~~and Customs Enforcement~~ *Department of Homeland Security*, or
13 deportation during the time that a minor child of that parent is
14 involved in dependency care.

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

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

23 (c) (1) If out-of-home placement is used to attain case plan
24 goals, the decision regarding choice of placement shall be based
25 upon selection of a safe setting that is the least restrictive or most
26 family like and the most appropriate setting that is available and
27 in close proximity to the parent's home, proximity to the child's
28 school, and consistent with the selection of the environment best
29 suited to meet the child's special needs and best interests. The
30 selection shall consider, in order of priority, placement with
31 relatives, tribal members, and foster family, group care, and
32 residential treatment pursuant to Section 7950 of the Family Code.
33 On or after January 1, 2012, for a nonminor dependent, as defined
34 in subdivision (v) of Section 11400, who is receiving AFDC-FC
35 benefits up to 21 years of age pursuant to Section 11403, in
36 addition to the above requirements, the selection of the placement,
37 including a supervised independent living setting, as described in
38 Section 11400, shall also be based upon the developmental needs
39 of young adults by providing opportunities to have incremental
40 responsibilities that prepare a nonminor dependent to transition to

1 independent living. If admission to, or continuation in, a group
2 home placement is being considered for a nonminor dependent,
3 the group home placement approval decision shall include a
4 youth-driven, team-based case planning process, as defined by the
5 department, in consultation with stakeholders. The case plan shall
6 consider the full range of placement options, and shall specify why
7 admission to, or continuation in, a group home placement is the
8 best alternative available at the time to meet the special needs or
9 well-being of the nonminor dependent, and how the placement
10 will contribute to the nonminor dependent's transition to
11 independent living. The case plan shall specify the treatment
12 strategies that will be used to prepare the nonminor dependent for
13 discharge to a less restrictive and more family-like setting,
14 including a target date for discharge from the group home
15 placement. The placement shall be reviewed and updated on a
16 regular, periodic basis to ensure that continuation in the group
17 home remains in the best interests of the nonminor dependent and
18 that progress is being made in achieving case plan goals leading
19 to independent living. The group home placement planning process
20 shall begin as soon as it becomes clear to the county welfare
21 department or probation office that a foster child in group home
22 placement is likely to remain in group home placement on his or
23 her 18th birthday, in order to expedite the transition to a less
24 restrictive and more family-like setting if he or she becomes a
25 nonminor dependent. The case planning process shall include
26 informing the youth of all of his or her options, including, but not
27 limited to, admission to or continuation in a group home placement.
28 Consideration for continuation of existing group home placement
29 for a nonminor dependent under 19 years of age may include the
30 need to stay in the same placement in order to complete high
31 school. After a nonminor dependent either completes high school
32 or attains his or her 19th birthday, whichever is earlier, continuation
33 in or admission to a group home is prohibited unless the nonminor
34 dependent satisfies the conditions of paragraph (5) of subdivision
35 (b) of Section 11403, and group home placement functions as a
36 short-term transition to the appropriate system of care. Treatment
37 services provided by the group home placement to the nonminor
38 dependent to alleviate or ameliorate the medical condition, as
39 described in paragraph (5) of subdivision (b) of Section 11403,

1 shall not constitute the sole basis to disqualify a nonminor
2 dependent from the group home placement.

3 (2) In addition to the requirements of paragraph (1), and taking
4 into account other statutory considerations regarding placement,
5 the selection of the most appropriate home that will meet the child's
6 special needs and best interests shall also promote educational
7 stability by taking into consideration proximity to the child's school
8 of origin, and school attendance area, the number of school
9 transfers the child has previously experienced, and the child's
10 school matriculation schedule, in addition to other indicators of
11 educational stability that the Legislature hereby encourages the
12 State Department of Social Services and the State Department of
13 Education to develop.

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

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

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

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

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

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

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

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

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

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

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

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

21 (A) The death of an immediate relative.

22 (B) The birth of a sibling.

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

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

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

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

4 (B) An assurance that the placement agency has coordinated
5 with the person holding the right to make educational decisions
6 for the child and appropriate local educational agencies to ensure
7 that the child remains in the school in which the child is enrolled
8 at the time of placement or, if remaining in that school is not in
9 the best interests of the child, assurances by the placement agency
10 and the local educational agency to provide immediate and
11 appropriate enrollment in a new school and to provide all of the
12 child’s educational records to the new school.

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

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

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

37 (11) If out-of-home services are used, the child has been in care
38 for at least 12 months, and the goal is not adoptive placement, the
39 case plan shall include documentation of the compelling reason
40 or reasons why termination of parental rights is not in the child’s

1 best interest. A determination completed or updated within the
2 past 12 months by the department when it is acting as an adoption
3 agency or by a licensed adoption agency that it is unlikely that the
4 child will be adopted, or that one of the conditions described in
5 paragraph (1) of subdivision (c) of Section 366.26 applies, shall
6 be deemed a compelling reason.

7 (12) (A) Parents and legal guardians shall have an opportunity
8 to review the case plan, and to sign it whenever possible, and then
9 shall receive a copy of the plan. In a voluntary service or placement
10 agreement, the parents or legal guardians shall be required to
11 review and sign the case plan. Whenever possible, parents and
12 legal guardians shall participate in the development of the case
13 plan. Commencing January 1, 2012, for nonminor dependents, as
14 defined in subdivision (v) of Section 11400, who are receiving
15 AFDC-FC up to 21 years of age pursuant to Section 11403, the
16 transitional independent living case plan, as set forth in subdivision
17 (y) of Section 11400, shall be developed with, and signed by, the
18 nonminor.

19 (B) Parents and legal guardians shall be advised that, pursuant
20 to Section 1228.1 of the Evidence Code, neither their signature on
21 the child welfare services case plan nor their acceptance of any
22 services prescribed in the child welfare services case plan shall
23 constitute an admission of guilt or be used as evidence against the
24 parent or legal guardian in a court of law. However, they shall also
25 be advised that the parent's or guardian's failure to cooperate,
26 except for good cause, in the provision of services specified in the
27 child welfare services case plan may be used in any hearing held
28 pursuant to Section 366.21 or 366.22 as evidence.

29 (13) A child shall be given a meaningful opportunity to
30 participate in the development of the case plan and state his or her
31 preference for foster care placement. A child who is 12 years of
32 age or older and in a permanent placement shall also be given the
33 opportunity to review the case plan, sign the case plan, and receive
34 a copy of the case plan.

35 (14) The case plan shall be included in the court report and shall
36 be considered by the court at the initial hearing and each review
37 hearing. Modifications to the case plan made during the period
38 between review hearings need not be approved by the court if the
39 casework supervisor for that case determines that the modifications
40 further the goals of the plan. If out-of-home services are used with

1 the goal of family reunification, the case plan shall consider and
2 describe the application of subdivision (b) of Section 11203.

3 (15) If the case plan has as its goal for the child a permanent
4 plan of adoption or placement in another permanent home, it shall
5 include a statement of the child's wishes regarding their permanent
6 placement plan and an assessment of those stated wishes. The
7 agency shall also include documentation of the steps the agency
8 is taking to find an adoptive family or other permanent living
9 arrangements for the child; to place the child with an adoptive
10 family, an appropriate and willing relative, a legal guardian, or in
11 another planned permanent living arrangement; and to finalize the
12 adoption or legal guardianship. At a minimum, the documentation
13 shall include child-specific recruitment efforts, such as the use of
14 state, regional, and national adoption exchanges, including
15 electronic exchange systems, when the child has been freed for
16 adoption. If the plan is for kinship guardianship, the case plan shall
17 document how the child meets the kinship guardianship eligibility
18 requirements.

19 (16) (A) When appropriate, for a child who is 16 years of age
20 or older and, commencing January 1, 2012, for a nonminor
21 dependent, the case plan shall include a written description of the
22 programs and services that will help the child, consistent with the
23 child's best interests, prepare for the transition from foster care to
24 independent living, and whether the youth has an in-progress
25 application pending for Title XVI Supplemental Security Income
26 benefits or for Special Juvenile Immigration Status or other
27 applicable application for legal residency and an active dependency
28 case is required for that application. When appropriate, for a
29 nonminor dependent, the case plan shall include a written
30 description of the program and services that will help the nonminor
31 dependent, consistent with his or her best interests, to prepare for
32 transition from foster care and assist the youth in meeting the
33 eligibility criteria set forth in Section 11403. If applicable, the case
34 plan shall describe the individualized supervision provided in the
35 supervised independent living setting as defined, in subdivision
36 (w) of Section 11400. The case plan shall be developed with the
37 child or nonminor dependent and individuals identified as important
38 to the child or nonminor dependent, and shall include steps the
39 agency is taking to ensure that the child or nonminor dependent

1 achieves permanence, including maintaining or obtaining
2 permanent connections to caring and committed adults.

3 (B) During the 90-day period prior to the participant attaining
4 18 years of age or older as the state may elect under Section
5 475(8)(B)(iii) of the federal Social Security Act (42 U.S.C. Sec.
6 675(8)(B)(iii)), whether during that period foster care maintenance
7 payments are being made on the child’s behalf or the child is
8 receiving benefits or services under Section 477 of the federal
9 Social Security Act (42 U.S.C. Sec. 677), a caseworker or other
10 appropriate agency staff or probation officer and other
11 representatives of the participant, as appropriate, shall provide the
12 youth or nonminor with assistance and support in developing the
13 written 90-day transition plan, that is personalized at the direction
14 of the child, information as detailed as the participant elects that
15 shall include, but not be limited to, options regarding housing,
16 health insurance, education, local opportunities for mentors and
17 continuing support services, and workforce supports and
18 employment services, a power of attorney for health care and
19 information regarding the advance health care directive form.

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

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

32 (i) When a child who is 10 years of age or older and who has
33 been in out-of-home placement for six months or longer, the case
34 plan shall include an identification of individuals, other than the
35 child’s siblings, who are important to the child and actions
36 necessary to maintain the child’s relationship with those
37 individuals, provided that those relationships are in the best interest
38 of the child. The social worker shall ask every child who is 10
39 years of age or older and who has been in out-of-home placement
40 for six months or longer to identify individuals other than the

1 child's siblings who are important to the child, and may ask any
2 other child to provide that information, as appropriate. The social
3 worker shall make efforts to identify other individuals who are
4 important to the child, consistent with the child's best interests.

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

7 (k) On or before June 30, 2008, the department, in consultation
8 with the County Welfare Directors Association of California and
9 other advocates, shall develop a comprehensive plan to ensure that
10 90 percent of foster children are visited by their caseworkers on a
11 monthly basis by October 1, 2011, and that the majority of the
12 visits occur in the residence of the child. The plan shall include
13 any data reporting requirements necessary to comply with the
14 provisions of the federal Child and Family Services Improvement
15 Act of 2006 (Public Law 109-288).

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

20 SEC. 23. If the Commission on State Mandates determines
21 that this act contains costs mandated by the state, reimbursement
22 to local agencies and school districts for those costs shall be made
23 pursuant to Part 7 (commencing with Section 17500) of Division
24 4 of Title 2 of the Government Code.