

AMENDED IN ASSEMBLY MARCH 28, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1879**

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**Introduced by Assembly Member McCarty**

February 10, 2016

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An act to amend Sections 361.5, 366, 366.21, 366.22, 366.25, 366.26, 366.3, 706.5, 706.6, 727.2, 727.3, 11400, 16501, and 16501.1 of, and to add Section 371 to, the Welfare and Institutions Code, relating to foster youth.

LEGISLATIVE COUNSEL'S DIGEST

AB 1879, as amended, McCarty. Foster youth: permanency.

Existing law provides that a minor may be removed from the physical custody of his or her parents if there is a substantial danger to the physical health of the child or the child is suffering severe emotional damage and there are no reasonable means to protect the child without removing him or her. Additionally, a minor who is in wardship proceedings may be removed from the physical custody of his or her parents if the court finds that one of several facts is present, including that the parent or guardian has failed to provide proper maintenance, training, and education for the minor. When a minor is removed from the physical custody of his or her parents in dependency or wardship proceedings, existing law generally requires that reunification services be provided to the minor and his or her family. Existing law also provides for periodic status review hearings, at which the court is required to return a minor to the physical custody of his or her parents unless the court makes specified findings.

Existing law requires, if a minor is not returned to the physical custody of his or her parents, the juvenile court to devise a permanency plan,

including, among others things, an order that the child be placed for adoption, an order that a legal guardian be appointed, or an order that the child remain in another planned permanent living arrangement if the child is 16 years of age or older. Existing law requires, prior to ordering a dependent child to remain in another planned permanent living arrangement as his or her permanent plan, the court to make a finding that the child is not a proper subject for adoption and has no one willing to accept legal guardianship.

This bill would require the court to order the provision of child-centered specialized permanency services, as defined, to a child who does not have a permanent plan of adoption and who is not placed with a fit and willing relative, or who is 16 years of age or older and placed in another planned permanent living arrangement. The bill would also authorize the court to order these services for a nonminor dependent in another planned permanent living arrangement. The bill would require the case plan for the child to identify the child-centered specialized permanency services to be provided, and would require the ~~court~~, court to review the child-centered specialized permanency services that have been provided to the child, as specified.

The bill would also require, in any case in which the court has ordered a dependent child or a ward of the juvenile court placed for adoption or has appointed a relative or nonrelative legal guardian, the social worker or probation officer to provide the prospective adoptive family or the guardian or guardians specified mental health treatment information. ~~By~~

By expanding the duties of social workers and probation officers with regard to the provision of child welfare services, this bill would impose a state-mandated local program.

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 no reimbursement is required by this act for a specified reason.

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. (a) The Legislature finds and declares all of the  
2 following:

1 (1) As of September 30, 2014, there were 62,545 California  
2 children living in the foster care system, with 16,561 children, or  
3 approximately 26 percent, in foster care for over three years, and  
4 9,780 children, or approximately 16 percent, in foster care for over  
5 five years. Adult outcomes are often poor for the children who  
6 emancipate from foster care without a permanent family. Within  
7 two years of exiting the foster care system, approximately 50  
8 percent of former foster youth will be homeless, in prison,  
9 victimized, or dead.

10 (2) Families committing to adoption or guardianship of children  
11 in foster care may face challenges unique to the adoption or  
12 guardianship experience that result from the trauma of the child's  
13 adverse childhood experiences. These challenges can create stress  
14 that puts the adoption or guardianship at risk of disruption and  
15 potentially results in the child's reentry into the foster care system.

16 (3) Provisions of the federal Preventing Sex Trafficking and  
17 Strengthening Families Act (Public Law 113-183) address the need  
18 to enhance efforts to improve permanency outcomes for older  
19 children in care by eliminating the use of other planned permanent  
20 living arrangements as a permanent plan for children under 16  
21 years of age.

22 (4) The new federal law also requires documentation of intensive  
23 and ongoing efforts to achieve permanence for youth with a case  
24 plan for another planned permanent living arrangement, and adds  
25 additional case plan and case plan review system requirements for  
26 children 16 years of age and older.

27 (b) It is the intent of the Legislature in enacting this act to  
28 improve permanency outcomes and stability for older children in  
29 foster care ~~and to bring California into compliance with provisions~~  
30 ~~of the federal Preventing Sex Trafficking and Strengthening~~  
31 ~~Families Act~~ by doing the following:

32 (1) Improving the stability of adoptive and guardianship families  
33 by requiring the State Department of Social Services, county  
34 adoption agencies, county child welfare agencies, and licensed  
35 adoption agencies to provide potential adoptive families and  
36 guardians information, in writing, regarding the importance of  
37 working with mental health providers that have specialized  
38 adoption or permanency clinical training and experience if the  
39 family needs clinical support, and a description of the desirable

1 clinical expertise the family should look for when choosing an  
2 adoption- or permanency-competent mental health professional.

3 (2) Improving permanency outcomes for children in foster care  
4 by requiring child-centered, specialized permanency services prior  
5 to deeming a child “unlikely to be adopted,” “not a proper subject  
6 for adoption,” or “having no one willing to take legal  
7 guardianship,” and prior to, and after, making a permanency plan  
8 for another planned permanent living arrangement or ordering a  
9 child into long-term foster care. *for children whose reunification*  
10 *services have been terminated, who are not placed with a fit and*  
11 *willing relative, and who are considered unlikely to achieve a*  
12 *permanent family.*

13 SEC. 2. Section 361.5 of the Welfare and Institutions Code is  
14 amended to read:

15 361.5. (a) Except as provided in subdivision (b), or when the  
16 parent has voluntarily relinquished the child and the relinquishment  
17 has been filed with the State Department of Social Services, or  
18 upon the establishment of an order of guardianship pursuant to  
19 Section 360, or when a court adjudicates a petition under Section  
20 329 to modify the court’s jurisdiction from delinquency jurisdiction  
21 to dependency jurisdiction pursuant to subparagraph (A) of  
22 paragraph (2) of subdivision (b) of Section 607.2 and the parents  
23 or guardian of the ward have had reunification services terminated  
24 under the delinquency jurisdiction, whenever a child is removed  
25 from a parent’s or guardian’s custody, the juvenile court shall order  
26 the social worker to provide child welfare services to the child and  
27 the child’s mother and statutorily presumed father or guardians.  
28 Upon a finding and declaration of paternity by the juvenile court  
29 or proof of a prior declaration of paternity by any court of  
30 competent jurisdiction, the juvenile court may order services for  
31 the child and the biological father, if the court determines that the  
32 services will benefit the child.

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

35 (A) Except as otherwise provided in subparagraph (C), for a  
36 child who, on the date of initial removal from the physical custody  
37 of his or her parent or guardian, was three years of age or older,  
38 court-ordered services shall be provided beginning with the  
39 dispositional hearing and ending 12 months after the date the child

1 entered foster care as provided in Section 361.49, unless the child  
2 is returned to the home of the parent or guardian.

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

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

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

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

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

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

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

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

25 ~~When~~

26 (B) When counseling or other treatment services are ordered,  
27 the parent or guardian shall be ordered to participate in those  
28 services, unless the parent's or guardian's participation is deemed  
29 by the court to be inappropriate or potentially detrimental to the  
30 child, or unless a parent or guardian is incarcerated or detained by  
31 the United States Department of Homeland Security and the  
32 corrections facility in which he or she is incarcerated does not  
33 provide access to the treatment services ordered by the court, or  
34 has been deported to his or her country of origin and services  
35 ordered by the court are not accessible in that country. Physical  
36 custody of the child by the parents or guardians during the  
37 applicable time period under subparagraph (A), (B), or (C) of  
38 paragraph (1) shall not serve to interrupt the running of the time  
39 period. ~~If~~ If, at the end of the applicable time period, a child cannot  
40 be safely returned to the care and custody of a parent or guardian

1 without court supervision, but the child clearly desires contact with  
2 the parent or guardian, the court shall take the child's desire into  
3 account in devising a permanency plan.

4 ~~In~~

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

18 (4) (A) Notwithstanding paragraph (3), court-ordered services  
19 may be extended up to a maximum time period not to exceed 24  
20 months after the date the child was originally removed from  
21 physical custody of his or her parent or guardian if it is shown, at  
22 the hearing held pursuant to subdivision (b) of Section 366.22,  
23 that the permanent plan for the child is that he or she will be  
24 returned and safely maintained in the home within the extended  
25 time period. The court shall extend the time period only if it finds  
26 that it is in the child's best interest to have the time period extended  
27 and that there is a substantial probability that the child will be  
28 returned to the physical custody of his or her parent or guardian  
29 who is described in subdivision (b) of Section 366.22 within the  
30 extended time period, or that reasonable services have not been  
31 provided to the parent or guardian. If the court extends the time  
32 period, the court shall specify the factual basis for its conclusion  
33 that there is a substantial probability that the child will be returned  
34 to the physical custody of his or her parent or guardian within the  
35 extended time period. The court also shall make findings pursuant  
36 to subdivision (a) of Section 366 and subdivision (e) of Section  
37 358.1.

38 ~~When~~

39 (B) *When* counseling or other treatment services are ordered,  
40 the parent or guardian shall be ordered to participate in those

1 services, in order for substantial probability to be found. Physical  
2 custody of the child by the parents or guardians during the  
3 applicable time period under subparagraph (A), (B), or (C) of  
4 paragraph (1) shall not serve to interrupt the running of the time  
5 period. ~~If~~ *If*, at the end of the applicable time period, the child  
6 cannot be safely returned to the care and custody of a parent or  
7 guardian without court supervision, but the child clearly desires  
8 contact with the parent or guardian, the court shall take the child's  
9 desire into account in devising a permanency plan.

10 ~~Except~~

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

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

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

23 (2) That the parent or guardian is suffering from a mental  
24 disability that is described in Chapter 2 (commencing with Section  
25 7820) of Part 4 of Division 12 of the Family Code and that renders  
26 him or her incapable of utilizing those services.

27 (3) That the child or a sibling of the child has been previously  
28 adjudicated a dependent pursuant to any subdivision of Section  
29 300 as a result of physical or sexual abuse, that following that  
30 adjudication the child had been removed from the custody of his  
31 or her parent or guardian pursuant to Section 361, that the child  
32 has been returned to the custody of the parent or guardian from  
33 whom the child had been taken originally, and that the child is  
34 being removed pursuant to Section 361, due to additional physical  
35 or sexual abuse.

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

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

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

8 **A**

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

21 **A**

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

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

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

39 (9) That the child has been found to be a child described in  
40 subdivision (g) of Section 300; that the parent or guardian of the

1 child willfully abandoned the child, and the court finds that the  
2 abandonment itself constituted a serious danger to the child; or  
3 that the parent or other person having custody of the child  
4 voluntarily surrendered physical custody of the child pursuant to  
5 Section 1255.7 of the Health and Safety Code. For the purposes  
6 of this paragraph, “serious danger” means that without the  
7 intervention of another person or agency, the child would have  
8 sustained severe or permanent disability, injury, illness, or death.  
9 For purposes of this paragraph, “willful abandonment” shall not  
10 be construed as actions taken in good faith by the parent without  
11 the intent of placing the child in serious danger.

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

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

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

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

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

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

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

22 (16) That the parent or guardian has been required by the court  
23 to be registered on a sex offender registry under the federal Adam  
24 Walsh Child Protection and Safety Act of 2006 (42 U.S.C. Sec.  
25 16913(a)), as required in Section 106(b)(2)(B)(xvi)(VI) of the  
26 Child Abuse Prevention and Treatment Act of 2006 (42 U.S.C.  
27 Sec. 5106a(2)(B)(xvi)(VI)).

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

38 ~~The~~

39 (1) *The* court shall not order reunification for a parent or  
40 guardian described in paragraph (3), (4), (6), (7), (8), (9), (10),

(11), (12), (13), (14), (15), or (16) of subdivision (b) unless the court finds, by clear and convincing evidence, that reunification is in the best interest of the child.

~~In~~

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

~~The~~

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

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

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

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

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

17 (B) Transportation services, when appropriate.

18 (C) Visitation services, when appropriate.

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

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

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

37 (2) The presiding judge of the juvenile court of each county  
38 may convene representatives of the county welfare department,  
39 the sheriff's department, and other appropriate entities for the  
40 purpose of developing and entering into protocols for ensuring the

1 notification, transportation, and presence of an incarcerated or  
2 institutionalized parent at all court hearings involving proceedings  
3 affecting the child pursuant to Section 2625 of the Penal Code.  
4 The county welfare department shall utilize the prisoner locator  
5 system developed by the Department of Corrections and  
6 Rehabilitation to facilitate timely and effective notice of hearings  
7 for incarcerated parents.

8 (3) Notwithstanding any other law, if the incarcerated parent is  
9 a woman seeking to participate in the community treatment  
10 program operated by the Department of Corrections and  
11 Rehabilitation pursuant to Chapter 4.8 (commencing with Section  
12 1174) of Title 7 of Part 2 ~~of, of the Penal Code or~~ Chapter 4  
13 (commencing with Section 3410) of Title 2 of Part 3 ~~of, of the~~  
14 Penal Code, the court shall determine whether the parent's  
15 participation in a program is in the child's best interest and whether  
16 it is suitable to meet the needs of the parent and child.

17 (f) If the court, pursuant to paragraph (2), (3), (4), (5), (6), (7),  
18 (8), (9), (10), (11), (12), (13), (14), (15), or (16) of subdivision (b)  
19 or paragraph (1) of subdivision (e), does not order reunification  
20 services, it shall, at the dispositional hearing, that shall include a  
21 permanency hearing, determine if a hearing under Section 366.26  
22 shall be set in order to determine whether adoption, guardianship,  
23 or continuation in foster care, ~~or or~~, in the case of an Indian child,  
24 in consultation with the child's tribe, tribal customary adoption,  
25 is the most appropriate current plan for the child, and shall consider  
26 in-state and out-of-state placement options. If the court so  
27 determines, it shall conduct the hearing pursuant to Section 366.26  
28 within 120 days after the dispositional hearing. However, the court  
29 shall not schedule a hearing so long as the other parent is being  
30 provided reunification services pursuant to subdivision (a). The  
31 court may continue to permit the parent to visit the child unless it  
32 finds that visitation would be detrimental to the child.

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

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

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

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

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

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

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

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

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

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

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

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

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

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 of Part  
7 3 of Division 9, as 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.

39 SEC. 3. Section 366 of the Welfare and Institutions Code is  
40 amended to read:

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

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

9     (B) The extent of the agency's compliance with the case plan  
10 in making reasonable efforts, or, in the case of a child 16 years of  
11 age or older with another planned permanent living arrangement,  
12 the ongoing and intensive efforts, including child-centered  
13 specialized permanency services, as defined in Section 11400, or,  
14 in the case of an Indian child, active efforts to return the child to  
15 a safe home, as described in Section 361.7, and to complete any  
16 steps necessary to finalize the permanent placement of the child,  
17 including efforts to maintain relationships between a child who is  
18 10 years of age or older and who has been in an out-of-home  
19 placement for six months or longer, and individuals other than the  
20 child's siblings who are important to the child, consistent with the  
21 child's best interests.

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

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

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

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

38     (III) If the siblings are not placed together in the same home,  
39 why the siblings are not placed together and what efforts are being

1 made to place the siblings together, or why those efforts are not  
2 appropriate.

3 (IV) If the siblings are not placed together, all of the following:

4 (ia) The frequency and nature of the visits between the siblings.

5 (ib) If there are visits between the siblings, whether the visits  
6 are supervised or unsupervised. If the visits are supervised, a  
7 discussion of the reasons why the visits are supervised, and what  
8 needs to be accomplished in order for the visits to be unsupervised.

9 (ic) If there are visits between the siblings, a description of the  
10 location and length of the visits.

11 (id) Any plan to increase visitation between the siblings.

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

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

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

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

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

29 (2) The court shall project a likely date by which the child may  
30 be returned to and safely maintained in the home or placed for  
31 adoption, tribal customary adoption in the case of an Indian child,  
32 legal guardianship, placed with a fit and willing relative, or, if the  
33 child is 16 years of age or older, in another planned permanent  
34 living arrangement with the provision of child-centered specialized  
35 permanency services, as defined in Section 11400.

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

39 (c) If the child has been placed out of state, each review  
40 described in subdivision (a) and any reviews conducted pursuant

1 to Sections 366.3 and 16503 shall also address whether the  
2 out-of-state placement continues to be the most appropriate  
3 placement selection and in the best interests of the child.

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

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

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

15 (A) Placement with a relative.

16 (B) Placement of siblings in the same home.

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

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

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

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

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

25 (4) If the court finds that a placement outside the United States  
26 is, by clear and convincing evidence, in the best interest of the  
27 child, the court may issue an order authorizing the social worker  
28 or placing agency to make a placement outside the United States.  
29 A child subject to this subdivision shall not leave the United States  
30 prior to the issuance of the order described in this paragraph.

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

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

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

39 (f) The status review of every nonminor dependent, as defined  
40 in subdivision (v) of Section 11400, shall be conducted pursuant

1 to the requirements of Sections 366.3, 366.31, or 366.32, and 16503  
2 until dependency jurisdiction is terminated pursuant to Section  
3 391.

4 SEC. 4. Section 366.21 of the Welfare and Institutions Code  
5 is amended to read:

6 366.21. (a) Every hearing conducted by the juvenile court  
7 reviewing the status of a dependent child shall be placed on the  
8 appearance calendar. The court shall advise all persons present at  
9 the hearing of the date of the future hearing and of their right to  
10 be present and represented by counsel.

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

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

1 Department of Social Services when it is acting as an adoption  
2 agency or by a county adoption agency, community care facility,  
3 or foster family agency having the physical custody of the child.  
4 The social worker shall include a copy of the Judicial Council  
5 Caregiver Information Form (JV-290) with the summary of  
6 recommendations to the child's foster parents, relative caregivers,  
7 or foster parents approved for adoption, in the caregiver's primary  
8 language when available, along with information on how to file  
9 the form with the court.

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

30 (e) (1) At the review hearing held six months after the initial  
31 dispositional hearing, but no later than 12 months after the date  
32 the child entered foster care as determined in Section 361.49,  
33 whichever occurs earlier, after considering the admissible and  
34 relevant evidence, the court shall order the return of the child to  
35 the physical custody of his or her parent or legal guardian unless  
36 the court finds, by a preponderance of the evidence, that the return  
37 of the child to his or her parent or legal guardian would create a  
38 substantial risk of detriment to the safety, protection, or physical  
39 or emotional well-being of the child. The social worker shall have  
40 the burden of establishing that detriment. At the hearing, the court

1 shall consider the criminal history, obtained pursuant to paragraph  
2 (1) of subdivision (f) of Section 16504.5, of the parent or legal  
3 guardian subsequent to the child's removal to the extent that the  
4 criminal record is substantially related to the welfare of the child  
5 or the parent's or guardian's ability to exercise custody and control  
6 regarding his or her child, provided the parent or legal guardian  
7 agreed to submit fingerprint images to obtain criminal history  
8 information as part of the case plan. The court shall also consider  
9 whether the child can be returned to the custody of his or her parent  
10 who is enrolled in a certified substance abuse treatment facility  
11 that allows a dependent child to reside with his or her parent. The  
12 fact that the parent is enrolled in a certified substance abuse  
13 treatment facility shall not be, for that reason alone, prima facie  
14 evidence of detriment. The failure of the parent or legal guardian  
15 to participate regularly and make substantive progress in  
16 court-ordered treatment programs shall be prima facie evidence  
17 that return would be detrimental. In making its determination, the  
18 court shall review and consider the social worker's report and  
19 recommendations and the report and recommendations of any child  
20 advocate appointed pursuant to Section 356.5; and shall consider  
21 the efforts or progress, or both, demonstrated by the parent or legal  
22 guardian and the extent to which he or she availed himself or  
23 herself of services provided, taking into account the particular  
24 barriers to a minor parent or a nonminor dependent parent, or an  
25 incarcerated, institutionalized, detained, or deported parent's or  
26 legal guardian's access to those court-mandated services and ability  
27 to maintain contact with his or her child.

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

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

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

(5) If the child was removed initially under subdivision (g) of Section 300 and the court finds by clear and convincing evidence that the whereabouts of the parent are still unknown, or the parent has failed to contact and visit the child, the court may schedule a

1 hearing pursuant to Section 366.26 within 120 days. The court  
2 shall take into account any particular barriers to a parent's ability  
3 to maintain contact with his or her child due to the parent's  
4 incarceration, institutionalization, detention by the United States  
5 Department of Homeland Security, or deportation. If the court  
6 finds by clear and convincing evidence that the parent has been  
7 convicted of a felony indicating parental unfitness, the court may  
8 schedule a hearing pursuant to Section 366.26 within 120 days.

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

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

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

27 (f) (1) The permanency hearing shall be held no later than 12  
28 months after the date the child entered foster care, as that date is  
29 determined pursuant to Section 361.49. At the permanency hearing,  
30 the court shall determine the permanent plan for the child, which  
31 shall include a determination of whether the child will be returned  
32 to the child's home and, if so, when, within the time limits of  
33 subdivision (a) of Section 361.5. After considering the relevant  
34 and admissible evidence, the court shall order the return of the  
35 child to the physical custody of his or her parent or legal guardian  
36 unless the court finds, by a preponderance of the evidence, that  
37 the return of the child to his or her parent or legal guardian would  
38 create a substantial risk of detriment to the safety, protection, or  
39 physical or emotional well-being of the child. The social worker  
40 shall have the burden of establishing that detriment.

1 (A) At the permanency hearing, the court shall consider the  
2 criminal history, obtained pursuant to paragraph (1) of subdivision  
3 (f) of Section 16504.5, of the parent or legal guardian subsequent  
4 to the child's removal to the extent that the criminal record is  
5 substantially related to the welfare of the child or the parent's or  
6 legal guardian's ability to exercise custody and control regarding  
7 his or her child, provided that the parent or legal guardian agreed  
8 to submit fingerprint images to obtain criminal history information  
9 as part of the case plan. The court shall also determine whether  
10 reasonable services that were designed to aid the parent or legal  
11 guardian to overcome the problems that led to the initial removal  
12 and continued custody of the child have been provided or offered  
13 to the parent or legal guardian.

14 (B) The court shall also consider whether the child can be  
15 returned to the custody of his or her parent who is enrolled in a  
16 certified substance abuse treatment facility that allows a dependent  
17 child to reside with his or her parent. The fact that the parent is  
18 enrolled in a certified substance abuse treatment facility shall not  
19 be, for that reason alone, prima facie evidence of detriment. The  
20 failure of the parent or legal guardian to participate regularly and  
21 make substantive progress in court-ordered treatment programs  
22 shall be prima facie evidence that return would be detrimental.

23 (C) In making its determination, the court shall review and  
24 consider the social worker's report and recommendations and the  
25 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 a minor parent or a  
30 nonminor dependent parent, or an incarcerated, institutionalized,  
31 detained, or deported parent's or legal guardian's access to those  
32 court-mandated services and ability to maintain contact with his  
33 or her child, and shall make appropriate findings pursuant to  
34 subdivision (a) of Section 366.

35 (D) 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 successful  
38 adulthood.

39 (2) Regardless of whether the child is returned to his or her  
40 parent or legal guardian, the court shall specify the factual basis

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

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

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

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

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

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

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

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

14 (2) Continue the case for up to six months for a permanency  
15 review hearing, provided that the hearing shall occur within 18  
16 months of the date the child was originally taken from the physical  
17 custody of his or her parent or legal guardian, if the parent has  
18 been arrested and issued an immigration hold, detained by the  
19 United States Department of Homeland Security, or deported to  
20 his or her country of origin, and the court determines either that  
21 there is a substantial probability that the child will be returned to  
22 the physical custody of his or her parent or legal guardian and  
23 safely maintained in the home within the extended period of time  
24 or that reasonable services have not been provided to the parent  
25 or legal guardian.

26 (3) For purposes of paragraph (2), in order to find a substantial  
27 probability that the child will be returned to the physical custody  
28 of his or her parent or legal guardian and safely maintained in the  
29 home within the extended period of time, the court shall find all  
30 of the following:

31 (A) The parent or legal guardian has consistently and regularly  
32 contacted and visited with the child, taking into account any  
33 particular barriers to a parent's ability to maintain contact with his  
34 or her child due to the parent's arrest and receipt of an immigration  
35 hold, detention by the United States Department of Homeland  
36 Security, or deportation.

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

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

5 (4) Order that a hearing be held within 120 days, pursuant to  
6 Section 366.26, but only if the court does not continue the case to  
7 the permanency planning review hearing and there is clear and  
8 convincing evidence that reasonable services have been provided  
9 or offered to the parents or legal guardians. On and after January  
10 1, 2012, a hearing pursuant to Section 366.26 shall not be ordered  
11 if the child is a nonminor dependent, unless the nonminor  
12 dependent is an Indian child and tribal customary adoption is  
13 recommended as the permanent plan.

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

36 (A) The court shall make factual findings identifying any  
37 barriers to achieving the permanent plan as of the hearing date.  
38 When the child is under 16 years of age, the court shall order a  
39 permanent plan of return home, adoption, tribal customary adoption  
40 in the case of an Indian child, legal guardianship, or placement

1 with a fit and willing relative, as appropriate. If the court  
2 determines that it will not order a hearing pursuant to Section  
3 366.26, and the child is not currently placed with a fit and willing  
4 relative, the court shall order the provision of child-centered  
5 specialized permanency services, as defined in Section 11400.  
6 When the child is 16 years of age or older, or is a nonminor  
7 dependent, and no other permanent plan is appropriate at the time  
8 of the hearing, the court may order another planned permanent  
9 living arrangement, as described in paragraph (2) of subdivision  
10 (i) of Section 16501, and order that the appropriateness of the  
11 child's continuation in another planned permanent living  
12 arrangement be assessed at the next review hearing held pursuant  
13 to Section 366. If the court orders another planned permanent  
14 living arrangement for a child 16 years of age or older, the court  
15 shall order the provision of child-centered specialized permanency  
16 services, as defined in Section 11400. If the court orders another  
17 planned permanent living arrangement for a nonminor dependent,  
18 the court may order the same services for the nonminor dependent.

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

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

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

1 termination of reunification services to the parent or legal guardian,  
2 it shall also order that the child's caregiver receive the child's birth  
3 certificate in accordance with Sections 16010.4 and 16010.5.  
4 Additionally, when the court orders a termination of reunification  
5 services to the parent or legal guardian, it shall order, when  
6 appropriate, that a child who is 16 years of age or older receive  
7 his or her birth certificate.

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

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

17 (B) A review of the amount of and nature of any contact between  
18 the child and his or her parents or legal guardians and other  
19 members of his or her extended family since the time of placement.  
20 Although the extended family of each child shall be reviewed on  
21 a case-by-case basis, "extended family" for the purpose of this  
22 subparagraph shall include, but not be limited to, the child's  
23 siblings, grandparents, 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 the 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 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~~ and,  
8 if 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 (H) In the case of an Indian child, in addition to subparagraphs  
16 (A) to (G), inclusive, an assessment of the likelihood that the child  
17 will be adopted, when, in consultation with the child's tribe, a  
18 tribal customary adoption, as defined in Section 366.24, is  
19 recommended. If tribal customary adoption is recommended, the  
20 assessment shall include an analysis of both of the following:

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

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

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

33 (B) Regardless of his or her immigration status, a relative  
34 caregiver shall be given information regarding the permanency  
35 options of guardianship and adoption, including the long-term  
36 benefits and consequences of each option, prior to establishing  
37 legal guardianship or pursuing adoption. If the proposed permanent  
38 plan is guardianship with an approved relative caregiver for a  
39 minor eligible for aid under the Kin-GAP Program, as provided  
40 for in Article 4.7 (commencing with Section 11385) of Chapter 2

1 of Part 3 of Division 9, the relative caregiver shall be informed  
2 about the terms and conditions of the negotiated agreement  
3 pursuant to Section 11387 and shall agree to its execution prior to  
4 the hearing held pursuant to Section 366.26. A copy of the executed  
5 negotiated agreement shall be attached to the assessment.

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

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

25 (l) For purposes of this section, evidence of any of the following  
26 circumstances shall not, in and of itself, be deemed a failure to  
27 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 SEC. 5. Section 366.22 of the Welfare and Institutions Code  
36 is amended to read:

37 366.22. (a) (1) When a case has been continued pursuant to  
38 paragraph (1) or (2) of subdivision (g) of Section 366.21, the  
39 permanency review hearing shall occur within 18 months after the  
40 date the child was originally removed from the physical custody

1 of his or her parent or legal guardian. After considering the  
2 admissible and relevant evidence, the court shall order the return  
3 of the child to the physical custody of his or her parent or legal  
4 guardian unless the court finds, by a preponderance of the evidence,  
5 that the return of the child to his or her parent or legal guardian  
6 would create a substantial risk of detriment to the safety, protection,  
7 or physical or emotional well-being of the child. The social worker  
8 shall have the burden of establishing that detriment. At the  
9 permanency review hearing, the court shall consider the criminal  
10 history, obtained pursuant to paragraph (1) of subdivision (f) of  
11 Section 16504.5, of the parent or legal guardian subsequent to the  
12 child's removal, to the extent that the criminal record is  
13 substantially related to the welfare of the child or the parent's or  
14 legal guardian's ability to exercise custody and control regarding  
15 his or her child, provided that the parent or legal guardian agreed  
16 to submit fingerprint images to obtain criminal history information  
17 as part of the case plan. The court shall also consider whether the  
18 child can be returned to the custody of his or her parent who is  
19 enrolled in a certified substance abuse treatment facility that allows  
20 a dependent child to reside with his or her parent. The fact that the  
21 parent is enrolled in a certified substance abuse treatment facility  
22 shall not be, for that reason alone, prima facie evidence of  
23 detriment. The failure of the parent or legal guardian to participate  
24 regularly and make substantive progress in court-ordered treatment  
25 programs shall be prima facie evidence that return would be  
26 detrimental. In making its determination, the court shall review  
27 and consider the social worker's report and recommendations and  
28 the report and recommendations of any child advocate appointed  
29 pursuant to Section 356.5; shall consider the efforts or progress,  
30 or both, demonstrated by the parent or legal guardian and the extent  
31 to which he or she availed himself or herself of services provided,  
32 taking into account the particular barriers of a minor parent or a  
33 nonminor dependent parent, or an incarcerated or institutionalized  
34 parent's or legal guardian's access to those court-mandated services  
35 and ability to maintain contact with his or her child; and shall make  
36 appropriate findings pursuant to subdivision (a) of Section 366.

37 (2) Whether or not the child is returned to his or her parent or  
38 legal guardian, the court shall specify the factual basis for its  
39 decision. If the child is not returned to a parent or legal guardian,  
40 the court shall specify the factual basis for its conclusion that return

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

7 (3) Unless the conditions in subdivision (b) are met and the  
8 child is not returned to a parent or legal guardian at the permanency  
9 review hearing, the court shall order that a hearing be held pursuant  
10 to Section 366.26 in order to determine whether adoption, or, in  
11 the case of an Indian child, in consultation with the child's tribe,  
12 tribal customary adoption, guardianship, or continued placement  
13 in foster care is the most appropriate plan for the child. On and  
14 after January 1, 2012, a hearing pursuant to Section 366.26 shall  
15 not be ordered if the child is a nonminor dependent, unless the  
16 nonminor dependent is an Indian child, and tribal customary  
17 adoption is recommended as the permanent plan. However, if the  
18 court finds by clear and convincing evidence, based on the evidence  
19 already presented to it, including a recommendation by the State  
20 Department of Social Services when it is acting as an adoption  
21 agency or by a county adoption agency, that there is a compelling  
22 reason, as described in paragraph (5) of subdivision (g) of Section  
23 366.21, for determining that a hearing held under Section 366.26  
24 is not in the best interests of the child because the child is currently  
25 not a proper subject for adoption and has no one willing to accept  
26 legal guardianship as of the hearing date, the court may, only under  
27 these circumstances, order that the child remain in foster care with  
28 a permanent plan of return home, adoption, tribal customary  
29 adoption in the case of an Indian child, legal guardianship, or  
30 placement with a fit and willing relative, as appropriate. If the  
31 court determines it will not order a hearing pursuant to Section  
32 366.26, and the child is not currently placed with a fit and willing  
33 relative, the court shall order the provision of child-centered  
34 specialized permanency services, as defined in Section 11400. If  
35 the child is 16 years of age or older or is a nonminor dependent,  
36 and no other permanent plan is appropriate at the time of the  
37 hearing, the court may order another planned permanent living  
38 arrangement, as described in paragraph (2) of subdivision (i) of  
39 Section 16501, and order that the appropriateness of the child's  
40 continuation in another planned permanent living arrangement be

1 assessed at the next review hearing held pursuant to Section 366.3.  
2 If the court orders another planned permanent living arrangement  
3 for a child 16 years of age or older, the court shall order the  
4 provision of child-centered specialized permanency services, as  
5 defined in Section 11400. The court shall make factual findings  
6 identifying any barriers to achieving the permanent plan as of the  
7 hearing date. On and after January 1, 2012, the nonminor  
8 dependent's legal status as an adult is in and of itself a compelling  
9 reason not to hold a hearing pursuant to Section 366.26. The court  
10 may order that a nonminor dependent who otherwise is eligible  
11 pursuant to Section 11403 remain in a planned, permanent living  
12 arrangement and may order the provision of child-centered  
13 specialized permanency services, as defined in Section 11400. If  
14 the court orders that a child who is 10 years of age or older remain  
15 in foster care, the court shall determine whether the agency has  
16 made reasonable efforts to maintain the child's relationships with  
17 individuals other than the child's siblings who are important to the  
18 child, consistent with the child's best interests, and may make any  
19 appropriate order to ensure that those relationships are maintained.  
20 The hearing shall be held no later than 120 days from the date of  
21 the permanency review hearing. The court shall also order  
22 termination of reunification services to the parent or legal guardian.  
23 The court shall continue to permit the parent or legal guardian to  
24 visit the child unless it finds that visitation would be detrimental  
25 to the child. The court shall determine whether reasonable services  
26 have been offered or provided to the parent or legal guardian. For  
27 purposes of this subdivision, evidence of any of the following  
28 circumstances shall not, in and of themselves, be deemed a failure  
29 to provide or offer reasonable services:

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

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

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

37 (b) (1) If the child is not returned to a parent or legal guardian  
38 at the permanency review hearing and the court determines by  
39 clear and convincing evidence that the best interests of the child  
40 would be met by the provision of additional reunification services

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

24 ~~(1)~~

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

27 ~~(2)~~

28 (B) That the parent or legal guardian has made significant and  
29 consistent progress in the prior 18 months in resolving problems  
30 that led to the child's removal from the home.

31 ~~(3)~~

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

40 For

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

7 ~~The~~

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

15 (c) (1) Whenever a court orders that a hearing pursuant to  
16 Section 366.26, including when a tribal customary adoption is  
17 recommended, shall be held, it shall direct the agency supervising  
18 the child and the county adoption agency, or the State Department  
19 of Social Services when it is acting as an adoption agency, to  
20 prepare an assessment that shall include:

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

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

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

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

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

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

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

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

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

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

33 (B) Regardless of his or her immigration status, a relative  
34 caregiver shall be given information regarding the permanency  
35 options of guardianship and adoption, including the long-term  
36 benefits and consequences of each option, prior to establishing  
37 legal guardianship or pursuing adoption. If the proposed permanent  
38 plan is guardianship with an approved relative caregiver for a  
39 minor eligible for aid under the Kin-GAP Program, as provided  
40 for in Article 4.7 (commencing with Section 11385) of Chapter 2

1 of Part 3 of Division 9, the relative caregiver shall be informed  
2 about the terms and conditions of the negotiated agreement  
3 pursuant to Section 11387 and shall agree to its execution prior to  
4 the hearing held pursuant to Section 366.26. A copy of the executed  
5 negotiated agreement shall be attached to the assessment.

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

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

26 SEC. 6. Section 366.25 of the Welfare and Institutions Code  
27 is amended to read:

28 366.25. (a) (1) When a case has been continued pursuant to  
29 subdivision (b) of Section 366.22, the subsequent permanency  
30 review hearing shall occur within 24 months after the date the  
31 child was originally removed from the physical custody of his or  
32 her parent or legal guardian. After considering the relevant and  
33 admissible evidence, the court shall order the return of the child  
34 to the physical custody of his or her parent or legal guardian unless  
35 the court finds, by a preponderance of the evidence, that the return  
36 of the child to his or her parent or legal guardian would create a  
37 substantial risk of detriment to the safety, protection, or physical  
38 or emotional well-being of the child. The social worker shall have  
39 the burden of establishing that detriment. At the subsequent  
40 permanency review hearing, the court shall consider the criminal

1 history, obtained pursuant to paragraph (1) of subdivision (f) of  
2 Section 16504.5, of the parent or legal guardian subsequent to the  
3 child's removal to the extent that the criminal record is substantially  
4 related to the welfare of the child or parent's or legal guardian's  
5 ability to exercise custody and control regarding his or her child  
6 provided that the parent or legal guardian agreed to submit  
7 fingerprint images to obtain criminal history information as part  
8 of the case plan. The court shall also consider whether the child  
9 can be returned to the custody of a parent who is enrolled in a  
10 certified substance abuse treatment facility that allows a dependent  
11 child to reside with his or her parent. The fact that the parent is  
12 enrolled in a certified substance abuse treatment facility shall not  
13 be, for that reason alone, prima facie evidence of detriment. The  
14 failure of the parent or legal guardian to participate regularly and  
15 make substantive progress in court-ordered treatment programs  
16 shall be prima facie evidence that return would be detrimental. In  
17 making its determination, the court shall review and consider the  
18 social worker's report and recommendations and the report and  
19 recommendations of any child advocate appointed pursuant to  
20 Section 356.5; shall consider the efforts or progress, or both,  
21 demonstrated by the parent or legal guardian and the extent to  
22 which he or she availed himself or herself of services provided;  
23 and shall make appropriate findings pursuant to subdivision (a) of  
24 Section 366.

25 (2) Whether or not the child is returned to his or her parent or  
26 legal guardian, the court shall specify the factual basis for its  
27 decision. If the child is not returned to a parent or legal guardian,  
28 the court shall specify the factual basis for its conclusion that return  
29 would be detrimental. If the child is not returned to his or her parent  
30 or 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 (3) If the child is not returned to a parent or legal guardian at  
36 the subsequent permanency review hearing, the court shall order  
37 that a hearing be held pursuant to Section 366.26 in order to  
38 determine whether adoption, or, in the case of an Indian child,  
39 tribal customary adoption, guardianship, or, in the case of a child  
40 16 years of age or older when no other permanent plan is currently

1 appropriate, another planned permanent living arrangement is the  
2 most appropriate plan for the child. On and after January 1, 2012,  
3 a hearing pursuant to Section 366.26 shall not be ordered if the  
4 child is a nonminor dependent, unless the nonminor dependent is  
5 an Indian child and tribal customary adoption is recommended as  
6 the permanent plan. However, if the court finds by clear and  
7 convincing evidence, based on the evidence already presented to  
8 it, including a recommendation by the State Department of Social  
9 Services when it is acting as an adoption agency or by a county  
10 adoption agency, that there is a compelling reason, as described  
11 in paragraph (5) of subdivision (g) of Section 366.21, for  
12 determining that a hearing held under Section 366.26 is not in the  
13 best interest of the child because the child is not currently a proper  
14 subject for adoption or, in the case of an Indian child, tribal  
15 customary adoption, and has no one willing to accept legal  
16 guardianship as of the hearing date, then the court may, only under  
17 these circumstances, order that the child remain in foster care with  
18 a permanent plan of return home, adoption, tribal customary  
19 adoption in the case of an Indian child, legal guardianship, or  
20 placement with a fit and willing relative, as appropriate. If the  
21 court determines it will not order a hearing pursuant to Section  
22 366.26, and the child is not currently placed with a fit and willing  
23 relative, the court shall order the provision of child-centered  
24 specialized permanency services, as defined in Section 11400. If  
25 the child is 16 years of age or older or is a nonminor dependent,  
26 and no other permanent plan is appropriate at the time of the  
27 hearing, the court may order another planned permanent living  
28 arrangement, as described in paragraph (2) of subdivision (i) of  
29 Section 16501, and order that the appropriateness of the child's  
30 continuation in another planned permanent living arrangement be  
31 assessed at the next review hearing held pursuant to Section 366.  
32 If the court orders another planned permanent living arrangement  
33 for a child 16 years of age or older, the court shall order the  
34 provision of child-centered specialized permanency services, as  
35 defined in Section 11400, and that the appropriateness of the child's  
36 continuation in another planned permanent living arrangement be  
37 assessed at the next review hearing held pursuant to Section 366.3.  
38 If the court orders another planned permanent living arrangement  
39 for a nonminor dependent, the court may order the same services  
40 for the nonminor dependent. The court shall make factual findings

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

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

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

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

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

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

37 (B) A review of the amount of, and nature of, any contact  
38 between the child and his or her parents and other members of his  
39 or her extended family since the time of placement. Although the  
40 extended family of each child shall be reviewed on a case-by-case

1 basis, “extended family” for the purposes of this paragraph shall  
2 include, but not be limited to, the child’s siblings, grandparents,  
3 aunts, and uncles.

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

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

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

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

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

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

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

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

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

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

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

1 has the same meaning as “relative” as defined in subdivision (c)  
2 of Section 11391.

3 SEC. 7. Section 366.26 of the Welfare and Institutions Code  
4 is amended to read:

5 366.26. (a) This section applies to children who are adjudged  
6 dependent children of the juvenile court pursuant to subdivision  
7 (d) of Section 360. The procedures specified herein are the  
8 exclusive procedures for conducting these hearings; Part 2  
9 (commencing with Section 3020) of Division 8 of the Family Code  
10 is not applicable to these proceedings. Section 8616.5 of the Family  
11 Code is applicable and available to all dependent children meeting  
12 the requirements of that section, if the postadoption contact  
13 agreement has been entered into voluntarily. For children who are  
14 adjudged dependent children of the juvenile court pursuant to  
15 subdivision (d) of Section 360, this section and Sections 8604,  
16 8605, 8606, and 8700 of the Family Code and Chapter 5  
17 (commencing with Section 7660) of Part 3 of Division 12 of the  
18 Family Code specify the exclusive procedures for permanently  
19 terminating parental rights with regard to, or establishing legal  
20 guardianship of, the child while the child is a dependent child of  
21 the juvenile court.

22 (b) At the hearing, which shall be held in juvenile court for all  
23 children who are dependents of the juvenile court, the court, in  
24 order to provide stable, permanent homes for these children, shall  
25 review the report as specified in Section 361.5, 366.21, 366.22, or  
26 366.25, shall indicate that the court has read and considered it,  
27 shall receive other evidence that the parties may present, and then  
28 shall make findings and orders in the following order of preference:

29 (1) Terminate the rights of the parent or parents and order that  
30 the child be placed for adoption and, upon the filing of a petition  
31 for adoption in the juvenile court, order that a hearing be set. The  
32 court shall proceed with the adoption after the appellate rights of  
33 the natural parents have been exhausted.

34 (2) Order, without termination of parental rights, the plan of  
35 tribal customary adoption, as described in Section 366.24, through  
36 tribal custom, traditions, or law of the Indian child’s tribe, and  
37 upon the court affording the tribal customary adoption order full  
38 faith and credit at the continued selection and implementation  
39 hearing, order that a hearing be set pursuant to paragraph (2) of  
40 subdivision (e).

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

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

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

11 (6) Order that the child be permanently placed with a fit and  
12 willing relative, subject to the periodic review of the juvenile court  
13 under Section 366.3.

14 (7) Order that the child remain in foster care, subject to the  
15 conditions described in paragraph (4) of subdivision (c) and the  
16 periodic review of the juvenile court under Section 366.3.

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

19 (c) (1) If the court determines, based on the assessment provided  
20 as ordered under subdivision (i) of Section 366.21, subdivision (b)  
21 of Section 366.22, or subdivision (b) of Section 366.25, and any  
22 other relevant evidence, by a clear and convincing standard, that  
23 it is likely the child will be adopted, the court shall terminate  
24 parental rights and order the child placed for adoption. The fact  
25 that the child is not yet placed in a preadoptive home nor with a  
26 relative or foster family who is prepared to adopt the child, shall  
27 not constitute a basis for the court to conclude that it is not likely  
28 the child will be adopted. A finding under subdivision (b) or  
29 paragraph (1) of subdivision (e) of Section 361.5 that reunification  
30 services shall not be offered, under subdivision (e) of Section  
31 366.21 that the whereabouts of a parent have been unknown for  
32 six months or that the parent has failed to visit or contact the child  
33 for six months, or that the parent has been convicted of a felony  
34 indicating parental unfitness, or, under Section 366.21 or 366.22,  
35 that the court has continued to remove the child from the custody  
36 of the parent or guardian and has terminated reunification services,  
37 shall constitute a sufficient basis for termination of parental rights.  
38 Under these circumstances, the court shall terminate parental rights  
39 unless either of the following applies:

1 (A) The child is living with a relative who is unable or unwilling  
2 to adopt the child because of circumstances that do not include an  
3 unwillingness to accept legal or financial responsibility for the  
4 child, but who is willing and capable of providing the child with  
5 a stable and permanent environment through legal guardianship,  
6 and the removal of the child from the custody of his or her relative  
7 would be detrimental to the emotional well-being of the child. For  
8 purposes of an Indian child, “relative” shall include an “extended  
9 family member,” as defined in the federal Indian Child Welfare  
10 Act of 1978 (25 U.S.C. Sec. 1903(2)).

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

14 (i) The parents have maintained regular visitation and contact  
15 with the child and the child would benefit from continuing the  
16 relationship.

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

19 (iii) The child is placed in a residential treatment facility,  
20 adoption is currently unlikely or undesirable, and continuation of  
21 parental rights will not prevent finding the child a permanent family  
22 placement if the parents cannot resume custody when residential  
23 care is no longer needed. If the court determines that adoption is  
24 currently unlikely or undesirable, the court shall order  
25 child-centered specialized permanency services, as defined in  
26 Section 11400, and assess progress towards placement in a  
27 permanent family at the next review hearing held pursuant to  
28 Section 366.3.

29 (iv) The child is living with a foster parent or Indian custodian  
30 who is unable or unwilling to adopt the child because of  
31 exceptional circumstances, that do not include an unwillingness  
32 to accept legal or financial responsibility for the child, but who is  
33 willing and capable of providing the child with a stable and  
34 permanent environment and the removal of the child from the  
35 physical custody of his or her foster parent or Indian custodian  
36 would be detrimental to the emotional well-being of the child. This  
37 clause does not apply to any child who is either (I) under six years  
38 of age or (II) a member of a sibling group where at least one child  
39 is under six years of age and the siblings are, or should be,  
40 permanently placed together.

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

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

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

15 (II) The child's tribe has identified guardianship, foster care  
16 with a fit and willing relative, tribal customary adoption, or another  
17 planned permanent living arrangement for the child.

18 (III) The child is a nonminor dependent, and the nonminor and  
19 the nonminor's tribe have identified tribal customary adoption for  
20 the nonminor.

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

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

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

27 (A) At each hearing at which the court was required to consider  
28 reasonable efforts or services, the court has found that reasonable  
29 efforts were not made or that reasonable services were not offered  
30 or provided.

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

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

34 (ii) The court does not make a determination at the hearing  
35 terminating parental rights, supported by evidence beyond a  
36 reasonable doubt, including testimony of one or more "qualified  
37 expert witnesses" as defined in Section 224.6, that the continued  
38 custody of the child by the parent is likely to result in serious  
39 emotional or physical damage to the child.

1 (iii) The court has ordered tribal customary adoption pursuant  
2 to Section 366.24.

3 (3) If the court finds that termination of parental rights would  
4 not be detrimental to the child pursuant to paragraph (1) and that  
5 the child has a probability for adoption but is difficult to place for  
6 adoption and there is no identified or available prospective adoptive  
7 parent, the court may identify adoption as the permanent placement  
8 goal and without terminating parental rights, order that efforts be  
9 made to locate an appropriate adoptive family for the child, within  
10 the state or out of the state, within a period not to exceed 180 days.  
11 During this 180-day period, the public agency responsible for  
12 seeking adoptive parents for each child shall, to the extent possible,  
13 ask each child who is 10 years of age or ~~older~~, *older* to identify  
14 any individuals, other than the child's siblings, who are important  
15 to the child, in order to identify potential adoptive parents. The  
16 public agency may ask any other child to provide that information,  
17 as appropriate. During the 180-day period, the public agency shall,  
18 to the extent possible, contact other private and public adoption  
19 agencies regarding the availability of the child for adoption. During  
20 the 180-day period, the public agency shall conduct the search for  
21 adoptive parents in the same manner as prescribed for children in  
22 Sections 8708 and 8709 of the Family Code. At the expiration of  
23 this period, another hearing shall be held and the court shall  
24 proceed pursuant to paragraph (1), (2), (3), (5), or (6) of subdivision  
25 (b). For purposes of this section, a child may only be found to be  
26 difficult to place for adoption if there is no identified or available  
27 prospective adoptive parent for the child because of the child's  
28 membership in a sibling group, or the presence of a diagnosed  
29 medical, physical, or mental handicap, or the child is seven years  
30 of age or more. If the child is found to be difficult to place for  
31 adoption, the court shall order child-centered specialized  
32 permanency services, as defined in Section 11400.

33 (4) (A) If the court finds that adoption of the child or  
34 termination of parental rights is not in the best interest of the child,  
35 because one of the conditions in clause (i), (ii), (iii), (iv), (v), or  
36 (vi) of subparagraph (B) of paragraph (1) or in paragraph (2)  
37 applies, the court shall order that the present caretakers or other  
38 appropriate persons shall become legal guardians of the child, or,  
39 in the case of an Indian child, consider a tribal customary adoption  
40 pursuant to Section 366.24. Legal guardianship shall be considered

1 before continuing the child in foster care under any other permanent  
2 plan, if it is in the best interests of the child and if a suitable  
3 guardian can be found. If the child continues in foster care, the  
4 court shall make factual findings identifying any barriers to  
5 achieving adoption, tribal customary adoption in the case of an  
6 Indian child, legal guardianship, or placement with a fit and willing  
7 relative as of the date of the hearing and shall order the agency to  
8 begin providing child-centered specialized permanency services,  
9 as defined in Section 11400. A child who is 10 years of age or  
10 ~~older~~, *older* shall be asked to identify any individuals, other than  
11 the child's siblings, who are important to the child, in order to  
12 identify potential guardians or, in the case of an Indian child,  
13 prospective tribal customary adoptive parents. The agency may  
14 ask any other child to provide that information, as appropriate.

15 (B) (i) If the child is living with an approved relative who is  
16 willing and capable of providing a stable and permanent  
17 environment, but not willing to become a legal guardian as of the  
18 hearing date, the court shall order a permanent plan of placement  
19 with a fit and willing relative, and the child shall not be removed  
20 from the home if the court finds the removal would be seriously  
21 detrimental to the emotional well-being of the child because the  
22 child has substantial psychological ties to the relative caretaker.

23 (ii) If the child is living with a nonrelative caregiver who is  
24 willing and capable of providing a stable and permanent  
25 environment but is not willing to become a legal guardian as of  
26 the hearing date, the court shall order that the child remain in foster  
27 care with a permanent plan of return home, adoption, legal  
28 guardianship, or placement with a fit and willing relative, as  
29 appropriate, and shall order the agency supervising the child and  
30 the county adoption agency, or the State Department of Social  
31 Services when it is acting as an adoption agency, to begin providing  
32 child-centered specialized permanency services, as defined in  
33 Section 11400. If the child is 16 years of age or older, or a  
34 nonminor dependent, and no other permanent plan is appropriate  
35 at the time of the hearing, the court may order another planned  
36 permanent living arrangement, as described in paragraph (2) of  
37 subdivision (i) of Section 16501, and order the provision of  
38 child-centered specialized permanency services, as defined in  
39 Section 11400. If the child is 16 years of age or older, the  
40 appropriateness of the child's continuation in a planned permanent

1 living arrangement shall be assessed at the next review hearing  
2 held pursuant to Section 366.3. If the order of another planned  
3 permanent living arrangement is made for a nonminor dependent,  
4 the court may order the provision of child-centered specialized  
5 permanency services, as defined in Section 11400. Regardless of  
6 the age of the child, the child shall not be removed from the home  
7 if the court finds the removal would be seriously detrimental to  
8 the emotional well-being of the child because the child has  
9 substantial psychological ties to the caregiver.

10 (iii) If the child is living in a group home or, on or after January  
11 1, 2017, a short-term residential treatment center, the court shall  
12 order that the child remain in foster care with a permanent plan of  
13 return home, adoption, tribal customary adoption in the case of an  
14 Indian child, legal guardianship, or placement with a fit and willing  
15 relative, as appropriate. If the child is 16 years of age or older, or  
16 a nonminor dependent, and no other permanent plan is appropriate  
17 at the time of the hearing, the court may order another planned  
18 permanent living arrangement, as described in paragraph (2) of  
19 subdivision (i) of Section 16501. If the child is 16 years or older,  
20 the court shall order the provision of child-centered specialized  
21 permanency services, as defined in Section 11400, and order that  
22 the appropriateness of the child's continuation in a planned  
23 permanent living arrangement be assessed again at the next review  
24 hearing held pursuant to Section 366.3. If the order of another  
25 planned permanent living arrangement is made for a nonminor  
26 dependent, the court may order the provision of child-centered  
27 specialized permanency services, as defined in Section 11400.

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

32 (5) (A) If the court finds that the child should not be placed for  
33 adoption, that legal guardianship shall not be established, that  
34 placement with a fit and willing relative is not appropriate as of  
35 the hearing date, and that there are no suitable foster parents except  
36 exclusive-use homes available to provide the child with a stable  
37 and permanent environment, the court may order the care, custody,  
38 and control of the child transferred from the county welfare  
39 department to a licensed foster family agency. The court shall  
40 consider the written recommendation of the county welfare director

1 regarding the suitability of the transfer. The transfer shall be subject  
2 to further court orders.

3 ~~The~~

4 (B) *The* licensed foster family agency shall place the child in a  
5 suitable licensed or exclusive-use home that has been certified by  
6 the agency as meeting licensing standards. The licensed foster  
7 family agency shall be responsible for supporting the child and  
8 providing appropriate services to the child, including those services  
9 ordered by the court. Responsibility for the support of the child  
10 shall not, in and of itself, create liability on the part of the foster  
11 family agency to third persons injured by the child. Those children  
12 whose care, custody, and control are transferred to a foster family  
13 agency shall not be eligible for foster care maintenance payments  
14 or child welfare services, except for emergency response services  
15 pursuant to Section 16504.

16 (d) The proceeding for the appointment of a guardian for a child  
17 who is a dependent of the juvenile court shall be in the juvenile  
18 court. If the court finds pursuant to this section that legal  
19 guardianship is the appropriate permanent plan, it shall appoint  
20 the legal guardian and issue letters of guardianship. The assessment  
21 prepared pursuant to subdivision (g) of Section 361.5, subdivision  
22 (i) of Section 366.21, subdivision (b) of Section 366.22, and  
23 subdivision (b) of Section 366.25 shall be read and considered by  
24 the court prior to the appointment, and this shall be reflected in  
25 the minutes of the court. The person preparing the assessment may  
26 be called and examined by any party to the proceeding.

27 (e) (1) The proceeding for the adoption of a child who is a  
28 dependent of the juvenile court shall be in the juvenile court if the  
29 court finds pursuant to this section that adoption is the appropriate  
30 permanent plan and the petition for adoption is filed in the juvenile  
31 court. Upon the filing of a petition for adoption, the juvenile court  
32 shall order that an adoption hearing be set. The court shall proceed  
33 with the adoption after the appellate rights of the natural parents  
34 have been exhausted. The full report required by Section 8715 of  
35 the Family Code shall be read and considered by the court prior  
36 to the adoption and this shall be reflected in the minutes of the  
37 court. The person preparing the report may be called and examined  
38 by any party to the proceeding. It is the intent of the Legislature,  
39 pursuant to this subdivision, to give potential adoptive parents the  
40 option of filing in the juvenile court the petition for the adoption

1 of a child who is a dependent of the juvenile court. Nothing in this  
2 section is intended to prevent the filing of a petition for adoption  
3 in any other court as permitted by law, instead of in the juvenile  
4 court.

5 (2) In the case of an Indian child, if the Indian child's tribe has  
6 elected a permanent plan of tribal customary adoption, the court,  
7 upon receiving the tribal customary adoption order will afford the  
8 tribal customary adoption order full faith and credit to the same  
9 extent that the court would afford full faith and credit to the public  
10 acts, records, judicial proceedings, and judgments of any other  
11 entity. Upon a determination that the tribal customary adoption  
12 order may be afforded full faith and credit, consistent with Section  
13 224.5, the court shall thereafter order a hearing to finalize the  
14 adoption be set upon the filing of the adoption petition. The  
15 prospective tribal customary adoptive parents and the child who  
16 is the subject of the tribal customary adoption petition shall appear  
17 before the court for the finalization hearing. The court shall  
18 thereafter issue an order of adoption pursuant to Section 366.24.

19 (3) If a child who is the subject of a finalized tribal customary  
20 adoption shows evidence of a developmental disability or mental  
21 illness as a result of conditions existing before the tribal customary  
22 adoption to the extent that the child cannot be relinquished to a  
23 licensed adoption agency on the grounds that the child is considered  
24 difficult to place for adoption as pursuant to paragraph (3) of  
25 subdivision (c) and of which condition the tribal customary  
26 adoptive parent or parents had no knowledge or notice before the  
27 entry of the tribal customary adoption order, a petition setting forth  
28 those facts may be filed by the tribal customary adoptive parent  
29 or parents with the juvenile court that granted the tribal customary  
30 adoption petition. If these facts are proved to the satisfaction of  
31 the juvenile court, it may make an order setting aside the tribal  
32 customary adoption order. The set-aside petition shall be filed  
33 within five years of the issuance of the tribal customary adoption  
34 order. The court clerk shall immediately notify the child's tribe  
35 and the department in Sacramento of the petition within 60 days  
36 after the notice of filing of the petition. The department shall file  
37 a full report with the court and shall appear before the court for  
38 the purpose of representing the child. Whenever a final decree of  
39 tribal customary adoption has been vacated or set aside, the child  
40 shall be returned to the custody of the county in which the

1 proceeding for tribal customary adoption was finalized. The  
2 biological parent or parents of the child may petition for return of  
3 custody. The disposition of the child after the court has entered an  
4 order to set aside a tribal customary adoption shall include  
5 consultation with the child's tribe.

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

9 (1) In accordance with subdivision (c) of Section 317, if a child  
10 before the court is without counsel, the court shall appoint counsel  
11 unless the court finds that the child would not benefit from the  
12 appointment of counsel. The court shall state on the record its  
13 reasons for that finding.

14 (2) If a parent appears without counsel and is unable to afford  
15 counsel, the court shall appoint counsel for the parent, unless this  
16 representation is knowingly and intelligently waived. The same  
17 counsel shall not be appointed to represent both the child and his  
18 or her parent. The public defender or private counsel may be  
19 appointed as counsel for the parent.

20 (3) Private counsel appointed under this section shall receive a  
21 reasonable sum for compensation and expenses, the amount of  
22 which shall be determined by the court. The amount shall be paid  
23 by the real parties in interest, other than the child, in any  
24 proportions the court deems just. However, if the court finds that  
25 any of the real parties in interest are unable to afford counsel, the  
26 amount shall be paid out of the general fund of the county.

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

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

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

39 (3) (A) The testimony of the child may be taken in chambers  
40 and outside the presence of the child's parent or parents, if the

1 child's parent or parents are represented by counsel, the counsel  
2 is present, and any of the following circumstances exists:

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

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

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

9 (B) After testimony in chambers, the parent or parents of the  
10 child may elect to have the court reporter read back the testimony  
11 or have the testimony summarized by counsel for the parent or  
12 parents.

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

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

24 (2) A tribal customary adoption order evidencing that the Indian  
25 child has been the subject of a tribal customary adoption shall be  
26 afforded full faith and credit and shall have the same force and  
27 effect as an order of adoption authorized by this section. The rights  
28 and obligations of the parties as to the matters determined by the  
29 Indian child's tribe shall be binding on all parties. A court shall  
30 not order compliance with the order absent a finding that the party  
31 seeking the enforcement participated, or attempted to participate,  
32 in good faith, in family mediation services of the court or dispute  
33 resolution through the tribe regarding the conflict, prior to the  
34 filing of the enforcement action.

35 (3) A child who has not been adopted after the passage of at  
36 least three years from the date the court terminated parental rights  
37 and for whom the court has determined that adoption is no longer  
38 the permanent plan may petition the juvenile court to reinstate  
39 parental rights pursuant to the procedure prescribed by Section  
40 388. The child may file the petition prior to the expiration of this

1 three-year period if the State Department of Social Services, county  
2 adoption agency, or licensed adoption agency that is responsible  
3 for custody and supervision of the child as described in subdivision  
4 (j) and the child stipulate that the child is no longer likely to be  
5 adopted. A child over 12 years of age shall sign the petition in the  
6 absence of a showing of good cause as to why the child could not  
7 do so. If it appears that the best interests of the child may be  
8 promoted by reinstatement of parental rights, the court shall order  
9 that a hearing be held and shall give prior notice, or cause prior  
10 notice to be given, to the social worker or probation officer and to  
11 the child's attorney of record, or, if there is no attorney of record  
12 for the child, to the child, and the child's tribe, if applicable, by  
13 means prescribed by subdivision (c) of Section 297. The court  
14 shall order the child or the social worker or probation officer to  
15 give prior notice of the hearing to the child's former parent or  
16 parents whose parental rights were terminated in the manner  
17 prescribed by subdivision (f) of Section 294 where the  
18 recommendation is adoption. The juvenile court shall grant the  
19 petition if it finds by clear and convincing evidence that the child  
20 is no longer likely to be adopted and that reinstatement of parental  
21 rights is in the child's best interest. If the court reinstates parental  
22 rights over a child who is under 12 years of age and for whom the  
23 new permanent plan will not be reunification with a parent or legal  
24 guardian, the court shall specify the factual basis for its findings  
25 that it is in the best interest of the child to reinstate parental rights.  
26 This subdivision is intended to be retroactive and applies to any  
27 child who is under the jurisdiction of the juvenile court at the time  
28 of the hearing regardless of the date parental rights were terminated.  
29 (j) If the court, by order or judgment, declares the child free  
30 from the custody and control of both parents, or one parent if the  
31 other does not have custody and control, or declares the child  
32 eligible for tribal customary adoption, the court shall at the same  
33 time order the child referred to the State Department of Social  
34 Services, county adoption agency, or licensed adoption agency for  
35 adoptive placement by the agency. However, except in the case  
36 of a tribal customary adoption where there is no termination of  
37 parental rights, a petition for adoption may not be granted until  
38 the appellate rights of the natural parents have been exhausted.  
39 The State Department of Social Services, county adoption agency,  
40 or licensed adoption agency shall be responsible for the custody

1 and supervision of the child and shall be entitled to the exclusive  
2 care and control of the child at all times until a petition for adoption  
3 or tribal customary adoption is granted, except as specified in  
4 subdivision (n). With the consent of the agency, the court may  
5 appoint a guardian of the child, who shall serve until the child is  
6 adopted.

7 (k) Notwithstanding any other law, the application of any person  
8 who, as a relative caretaker or foster parent, has cared for a  
9 dependent child for whom the court has approved a permanent  
10 plan for adoption, or who has been freed for adoption, shall be  
11 given preference with respect to that child over all other  
12 applications for adoptive placement if the agency making the  
13 placement determines that the child has substantial emotional ties  
14 to the relative caretaker or foster parent and removal from the  
15 relative caretaker or foster parent would be seriously detrimental  
16 to the child's emotional well-being.

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

21 (l) (1) An order by the court that a hearing pursuant to this  
22 section be held is not appealable at any time unless all of the  
23 following apply:

24 (A) A petition for extraordinary writ review was filed in a timely  
25 manner.

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

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

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

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

37 (A) A trial court, after issuance of an order directing a hearing  
38 pursuant to this section be held, shall advise all parties of the  
39 requirement of filing a petition for extraordinary writ review as  
40 set forth in this subdivision in order to preserve any right to appeal

1 in these issues. This notice shall be made orally to a party if the  
2 party is present at the time of the making of the order or by  
3 first-class mail by the clerk of the court to the last known address  
4 of a party not present at the time of the making of the order.

5 (B) The prompt transmittal of the records from the trial court  
6 to the appellate court.

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

9 (D) That the parent or guardian, or their trial counsel or other  
10 counsel, is charged with the responsibility of filing a petition for  
11 extraordinary writ relief pursuant to this subdivision.

12 (4) The intent of this subdivision is to do both of the following:

13 (A) Make every reasonable attempt to achieve a substantive and  
14 meritorious review by the appellate court within the time specified  
15 in Sections 366.21, 366.22, and 366.25 for holding a hearing  
16 pursuant to this section.

17 (B) Encourage the appellate court to determine all writ petitions  
18 filed pursuant to this subdivision on their merits.

19 (5) This subdivision shall only apply to cases in which an order  
20 to set a hearing pursuant to this section is issued on or after January  
21 1, 1995.

22 (m) Except for subdivision (j), this section shall also apply to  
23 minors adjudged wards pursuant to Section 727.31.

24 (n) (1) Notwithstanding Section 8704 of the Family Code or  
25 any other law, the court, at a hearing held pursuant to this section  
26 or anytime thereafter, may designate a current caretaker as a  
27 prospective adoptive parent if the child has lived with the caretaker  
28 for at least six months, the caretaker currently expresses a  
29 commitment to adopt the child, and the caretaker has taken at least  
30 one step to facilitate the adoption process. In determining whether  
31 to make that designation, the court may take into consideration  
32 whether the caretaker is listed in the preliminary assessment  
33 prepared by the county department in accordance with subdivision  
34 (i) of Section 366.21 as an appropriate person to be considered as  
35 an adoptive parent for the child and the recommendation of the  
36 State Department of Social Services, county adoption agency, or  
37 licensed adoption agency.

38 (2) For purposes of this subdivision, steps to facilitate the  
39 adoption process include, but are not limited to, the following:

40 (A) Applying for an adoption home study.

1 (B) Cooperating with an adoption home study.

2 (C) Being designated by the court or the adoption agency as the  
3 adoptive family.

4 (D) Requesting de facto parent status.

5 (E) Signing an adoptive placement agreement.

6 (F) Engaging in discussions regarding a postadoption contact  
7 agreement.

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

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

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

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

33 (B) A hearing ordered pursuant to this paragraph shall be held  
34 as soon as possible and not later than five court days after the  
35 petition is filed with the court or the court sets a hearing upon its  
36 own motion, unless the court for good cause is unable to set the  
37 matter for hearing five court days after the petition is filed, in  
38 which case the court shall set the matter for hearing as soon as  
39 possible. At the hearing, the court shall determine whether the  
40 caretaker has met the threshold criteria to be designated as a

1 prospective adoptive parent pursuant to paragraph (1), and whether  
2 the proposed removal of the child from the home of the designated  
3 prospective adoptive parent is in the child's best interest, and the  
4 child may not be removed from the home of the designated  
5 prospective adoptive parent unless the court finds that removal is  
6 in the child's best interest. If the court determines that the caretaker  
7 did not meet the threshold criteria to be designated as a prospective  
8 adoptive parent on the date of service of the notice of proposed  
9 removal of the child, the petition objecting to the proposed removal  
10 filed by the caretaker shall be dismissed. If the caretaker was  
11 designated as a prospective adoptive parent prior to this hearing,  
12 the court shall inquire into any progress made by the caretaker  
13 towards the adoption of the child since the caretaker was designated  
14 as a prospective adoptive parent.

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

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

27 (4) Notwithstanding paragraph (3), if the State Department of  
28 Social Services, county adoption agency, or licensed adoption  
29 agency determines that the child must be removed from the home  
30 of the caretaker who is or may be a designated prospective adoptive  
31 parent immediately, due to a risk of physical or emotional harm,  
32 the agency may remove the child from that home and is not  
33 required to provide notice prior to the removal. However, as soon  
34 as possible and not longer than two court days after the removal,  
35 the agency shall notify the court, the caretaker who is or may be  
36 a designated prospective adoptive parent, the child's attorney, and  
37 the child, if the child is 10 years of age or older, of the removal.  
38 Within five court days or seven calendar days, whichever is longer,  
39 of the date of notification of the removal, the child, the child's  
40 attorney, or the caretaker who is or may be a designated prospective

1 adoptive parent may petition for, or the court on its own motion  
2 may set, a noticed hearing pursuant to paragraph (3). The court  
3 may, for good cause, extend the filing period.

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

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

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

14 SEC. 8. Section 366.3 of the Welfare and Institutions Code is  
15 amended to read:

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

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

(b) (1) If the court has dismissed dependency jurisdiction following the establishment of a legal guardianship, or no dependency jurisdiction attached because of the granting of a legal guardianship pursuant to Section 360, and the legal guardianship is subsequently revoked or otherwise terminated, the county department of social services or welfare department shall notify the juvenile court of this fact. The court may vacate its previous order dismissing dependency jurisdiction over the child.

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

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

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

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

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

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

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

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

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

10 The court shall determine whether or not reasonable efforts,  
11 including the provision of child-centered specialized permanency  
12 services, as defined in Section 11400, to make and finalize a  
13 permanent placement for the child have been made.

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

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

21 (2) The extent to which child-centered specialized permanency  
22 services, as described Section 11400, have been provided.

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

35 (4) The continuing appropriateness and extent of compliance  
36 with the permanent plan for the child, including efforts to maintain  
37 relationships between a child who is 10 years of age or older and  
38 who has been in out-of-home placement for six months or longer  
39 and individuals who are important to the child and efforts to  
40 identify a prospective adoptive parent or legal guardian, including,

1 but not limited to, child-specific recruitment efforts and listing on  
2 an adoption exchange.

3 (5) The extent of the agency's compliance with the child welfare  
4 services case plan in making reasonable efforts either to return the  
5 child to the safe home of the parent or to complete whatever steps  
6 are necessary to finalize the permanent placement of the child,  
7 including the provision of child-centered specialized permanency  
8 services, as defined in Section 11400. If the reviewing body  
9 determines that a second period of reunification services is in the  
10 child's best interests, and that there is a significant likelihood of  
11 the child's return to a safe home due to changed circumstances of  
12 the parent, pursuant to subdivision (f), the specific reunification  
13 services required to effect the child's return to a safe home shall  
14 be described.

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

25 (7) The adequacy of services provided to the child. The court  
26 shall consider the progress in providing the information and  
27 documents to the child, as described in Section 391. The court  
28 shall also consider the need for, and progress in providing, the  
29 assistance and services described in Section 391.

30 (8) The extent of progress the parents or legal guardians have  
31 made toward alleviating or mitigating the causes necessitating  
32 placement in foster care.

33 (9) The likely date by which the child may be returned to, and  
34 safely maintained in, the home, placed for adoption, legal  
35 guardianship, placed with a fit and willing relative, or, for an Indian  
36 child, in consultation with the child's tribe, placed for tribal  
37 customary adoption, or, if the child is 16 years of age or older, and  
38 no other permanent plan is appropriate at the time of the hearing,  
39 in another planned permanent living arrangement with the provision

1 of child-centered specialized permanency services, as defined in  
2 Section 11400.

3 (10) Whether the child has any siblings under the court's  
4 jurisdiction, and, if any siblings exist, all of the following:

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

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

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

13 (D) If the siblings are not placed together, all of the following:

14 (i) The frequency and nature of the visits between the siblings.

15 (ii) If there are visits between the siblings, whether the visits  
16 are supervised or unsupervised. If the visits are supervised, a  
17 discussion of the reasons why the visits are supervised, and what  
18 needs to be accomplished in order for the visits to be unsupervised.

19 (iii) If there are visits between the siblings, a description of the  
20 location and length of the visits.

21 (iv) Any plan to increase visitation between the siblings.

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

24 The factors the court may consider as indicators of the nature of  
25 the child's sibling relationships include, but are not limited to,  
26 whether the siblings were raised together in the same home,  
27 whether the siblings have shared significant common experiences  
28 or have existing close and strong bonds, whether either sibling  
29 expresses a desire to visit or live with his or her sibling, as  
30 applicable, and whether ongoing contact is in the child's best  
31 emotional interests.

32 (11) For a child who is 14 years of age or older, and, effective  
33 January 1, 2012, for a nonminor dependent, the services needed  
34 to assist the child or nonminor dependent to make the transition  
35 from foster care to successful adulthood.

36 The reviewing body shall determine whether or not reasonable  
37 efforts, including the provision of child-centered specialized  
38 permanency services, as defined in Section 11400, to make and  
39 finalize a permanent placement for the child have been made.

1 Each licensed foster family agency shall submit reports for each  
2 child in its care, custody, and control to the court concerning the  
3 continuing appropriateness and extent of compliance with the  
4 child's permanent plan, the extent of compliance with the case  
5 plan, and the type and adequacy of services provided to the child.

6 (f) Unless their parental rights have been permanently  
7 terminated, the parent or parents of the child are entitled to receive  
8 notice of, and participate in, those hearings. It shall be presumed  
9 that continued care is in the best interests of the child, unless the  
10 parent or parents prove, by a preponderance of the evidence, that  
11 further efforts at reunification are the best alternative for the child.  
12 In those cases, the court may order that further reunification  
13 services to return the child to a safe home environment be provided  
14 to the parent or parents up to a period of six months, and family  
15 maintenance services, as needed for an additional six months in  
16 order to return the child to a safe home environment. On and after  
17 January 1, 2012, this subdivision shall not apply to the parents of  
18 a nonminor dependent.

19 (g) (1) At the review conducted by the court and held at least  
20 every six months, regarding a child for whom the court has ordered  
21 parental rights terminated and who has been ordered placed for  
22 adoption, or, for an Indian child for whom parental rights are not  
23 being terminated and a tribal customary adoption is being  
24 considered, the county welfare department shall prepare and present  
25 to the court a report describing the following:

26 ~~(1)~~

27 (A) The child's present placement.

28 ~~(2)~~

29 (B) The child's current physical, mental, emotional, and  
30 educational status.

31 ~~(3)~~

32 (C) If the child has not been placed with a prospective adoptive  
33 parent or guardian, identification of individuals, other than the  
34 child's siblings, who are important to the child and actions  
35 necessary to maintain the child's relationship with those  
36 individuals, provided that those relationships are in the best interest  
37 of the child. The agency shall ask every child who is 10 years of  
38 age or older to identify any individuals who are important to him  
39 or her, consistent with the child's best interest, and may ask any  
40 child who is younger than 10 years of age to provide that

1 information as appropriate. The agency shall make efforts to  
2 identify other individuals who are important to the child.

3 ~~(4)~~

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

6 ~~(5)~~

7 (E) Whether an adoptive placement agreement has been signed  
8 and filed.

9 ~~(6)~~

10 (F) If the child has not been placed with a prospective adoptive  
11 parent or parents, the efforts made to identify an appropriate  
12 prospective adoptive parent or legal guardian, including, but not  
13 limited to, child-centered specialized permanency services, as  
14 defined in Section 11400, child-specific recruitment efforts, and  
15 listing on an adoption exchange.

16 ~~(7)~~

17 (G) Whether the final adoption order should include provisions  
18 for postadoptive sibling contact pursuant to Section 366.29.

19 ~~(8)~~

20 (H) The progress of the search for an adoptive placement if one  
21 has not been identified.

22 ~~(9)~~

23 (I) Any impediments to the adoption or the adoptive placement.

24 ~~(10)~~

25 (J) The anticipated date by which the child will be adopted or  
26 placed in an adoptive home.

27 ~~(11)~~

28 (K) The anticipated date by which an adoptive placement  
29 agreement will be signed.

30 ~~(12)~~

31 (L) Recommendations for court orders that will assist in the  
32 placement of the child for adoption or in the finalization of the  
33 adoption, including the provision of child-centered specialized  
34 permanency services, as defined in Section 11400.

35 ~~The~~

36 (2) *The* court shall determine whether or not reasonable efforts  
37 to make and finalize a permanent placement for the child have  
38 been made.

39 ~~The~~

1 (3) *The* court shall make appropriate orders to protect the  
2 stability of the child and to facilitate and expedite the permanent  
3 placement and adoption of the child.

4 (h) (1) At the review held pursuant to subdivision (d) for a child  
5 in foster care, the court shall consider all permanency planning  
6 options for the child including whether the child should be returned  
7 to the home of the parent, placed for adoption, or, for an Indian  
8 child, in consultation with the child's tribe, placed for tribal  
9 customary adoption, or appointed a legal guardian, placed with a  
10 fit and willing relative, or, if compelling reasons exist for finding  
11 that none of the foregoing options are in the best interest of the  
12 child and the child is 16 years of age or older, whether the child  
13 should be placed in another planned permanent living arrangement  
14 with the provision of child-centered specialized permanency  
15 services, as defined in Section 11400. The court shall order that a  
16 hearing be held pursuant to Section 366.26, unless it determines  
17 by clear and convincing evidence that there is a compelling reason  
18 for determining that a hearing held pursuant to Section 366.26 is  
19 not in the best interest of the child because the child is being  
20 returned to the home of the parent, the child is not currently a  
21 proper subject for adoption, or no one is willing to accept legal  
22 guardianship as of the hearing date. If the county adoption agency,  
23 or the department when it is acting as an adoption agency, has  
24 determined it is unlikely that the child will be adopted or one of  
25 the conditions described in paragraph (1) of subdivision (c) of  
26 Section 366.26 applies, that fact shall constitute a compelling  
27 reason for purposes of this subdivision. Only upon that  
28 determination may the court order that the child remain in foster  
29 care, without holding a hearing pursuant to Section 366.26. The  
30 court shall make factual findings identifying any barriers to  
31 achieving the permanent plan as of the hearing date. On and after  
32 January 1, 2012, the nonminor dependent's legal status as an adult  
33 is in and of itself a compelling reason not to hold a hearing pursuant  
34 to Section 366.26.

35 (2) When the child is 16 years of age or older and in another  
36 planned permanent living arrangement, the court shall do all of  
37 the following:

38 (A) Ask the child about his or her desired permanency outcome.

1 (B) Make a judicial determination explaining why, as of the  
2 hearing date, another planned permanent living arrangement is the  
3 best permanency plan for the child.

4 (C) State for the record the compelling reason or reasons why  
5 it continues not to be in the best interest of the child to return home,  
6 be placed for adoption, be placed for tribal customary adoption in  
7 the case of an Indian child, be placed with a legal guardian, or be  
8 placed with a fit and willing relative.

9 (3) When the child is 16 years of age or older and is in another  
10 planned permanent living arrangement, the social study prepared  
11 for the hearing shall include a description of all of the following:

12 (A) The intensive and ongoing efforts, including the provision  
13 of child-centered specialized permanency services, as defined in  
14 Section 11400, to return the child to the home of the parent, place  
15 the child for adoption, or establish a legal guardianship, as  
16 appropriate.

17 (B) The steps taken to do both of the following:

18 (i) Ensure that the child's care provider is following the  
19 reasonable and prudent parent standard.

20 (ii) Determine whether the child has regular, ongoing  
21 opportunities to engage in age or developmentally appropriate  
22 activities, including consulting with the child about opportunities  
23 for the child to participate in those activities.

24 (4) When the child is under 16 years of age and has a permanent  
25 plan of return home, adoption, legal guardianship, or placement  
26 with a fit and willing relative, any barriers to achieving the  
27 permanent plan and the efforts made by the agency address those  
28 barriers, including the provision of child-centered specialized  
29 permanency services, as defined in Section 11400.

30 (i) If, as authorized by subdivision (h), the court orders a hearing  
31 pursuant to Section 366.26, the court shall direct the agency  
32 supervising the child and the county adoption agency, or the State  
33 Department of Social Services when it is acting as an adoption  
34 agency, to prepare an assessment as provided for in subdivision  
35 (i) of Section 366.21 or subdivision (b) of Section 366.22. A  
36 hearing held pursuant to Section 366.26 shall be held no later than  
37 120 days from the date of the 12-month review at which it is  
38 ordered, and at that hearing the court shall determine whether  
39 adoption, tribal customary adoption, legal guardianship, placement  
40 with a fit and willing relative, or, for a child 16 years of age or

1 older, another planned permanent living arrangement is the most  
2 appropriate plan for the child. On and after January 1, 2012, a  
3 hearing pursuant to Section 366.26 shall not be ordered if the child  
4 is a nonminor dependent, unless the nonminor dependent is an  
5 Indian child and tribal customary adoption is recommended as the  
6 permanent plan. The court may order that a nonminor dependent  
7 who otherwise is eligible pursuant to Section 11403 remain in a  
8 planned, permanent living arrangement. At the request of the  
9 nonminor dependent who has an established relationship with an  
10 adult determined to be the nonminor dependent's permanent  
11 connection, the court may order adoption of the nonminor  
12 dependent pursuant to subdivision (f) of Section 366.31.

13 (j) The reviews conducted pursuant to subdivision (a) or (d)  
14 may be conducted earlier than every six months if the court  
15 determines that an earlier review is in the best interests of the child  
16 or as court rules prescribe.

17 SEC. 9. Section 371 is added to the Welfare and Institutions  
18 Code, to read:

19 371. When the court has ordered a dependent child or a ward  
20 of the juvenile court placed for adoption or has appointed a relative  
21 or nonrelative legal guardian, the social worker or probation officer  
22 shall provide the prospective adoptive family or the guardian or  
23 guardians information, in writing, regarding the importance of  
24 working with mental health providers that have specialized  
25 adoption or permanency clinical training and experience if the  
26 family needs clinical support, and a description of the desirable  
27 clinical expertise the family should look for when choosing an  
28 adoption- or permanency-competent mental health professional.

29 SEC. 10. Section 706.5 of the Welfare and Institutions Code  
30 is amended to read:

31 706.5. (a) If placement in foster care is recommended by the  
32 probation officer, or where the minor is already in foster care  
33 placement or pending placement pursuant to an earlier order, the  
34 social study prepared by the probation officer that is received into  
35 evidence at disposition pursuant to Section 706 shall include a  
36 case plan, as described in Section 706.6. If the court elects to hold  
37 the first status review at the disposition hearing, the social study  
38 shall also include, but not be limited to, the factual material  
39 described in subdivision (c).

1 (b) If placement in foster care is not recommended by the  
2 probation officer prior to disposition, but the court orders foster  
3 care placement, the court shall order the probation officer to prepare  
4 a case plan, as described in Section 706.6, within 30 days of the  
5 placement order. The case plan shall be filed with the court.

6 (c) At each status review hearing, the social study shall include,  
7 but not be limited to, an updated case plan as described in Section  
8 706.6 and the following information:

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

11 (2) The extent of the probation department's compliance with  
12 the case plan in making reasonable efforts to safely return the  
13 minor to the minor's home or to complete whatever steps are  
14 necessary to finalize the permanent placement of the minor.

15 (3) The extent of progress that has been made by the minor and  
16 parent or guardian toward alleviating or mitigating the causes  
17 necessitating placement in foster care.

18 (4) If the first permanency planning hearing has not yet occurred,  
19 the social study shall include the likely date by which the minor  
20 may be returned to and safely maintained in the home or placed  
21 for adoption, appointed a legal guardian, permanently placed with  
22 a fit and willing relative, or referred to another planned permanent  
23 living arrangement.

24 (5) Whether the minor has been or will be referred to educational  
25 services and what services the minor is receiving, including special  
26 education and related services if the minor has exceptional needs  
27 as described in Part 30 (commencing with Section 56000) of  
28 Division 4 of Title 2 of the Education Code or accommodations  
29 if the child has disabilities as described in Chapter 16 (commencing  
30 with Section 701) of Title 29 of the United States Code Annotated.  
31 The probation officer or child advocate shall solicit comments  
32 from the appropriate local education agency prior to completion  
33 of the social study.

34 (6) If the parent or guardian is unwilling or unable to participate  
35 in making an educational or developmental services decision for  
36 his or her child, or if other circumstances exist that compromise  
37 the ability of the parent or guardian to make educational or  
38 developmental services decisions for the child, the probation  
39 department shall consider whether the right of the parent or  
40 guardian to make educational or developmental services decisions

1 for the minor should be limited. If the study makes that  
2 recommendation, it shall identify whether there is a responsible  
3 adult available to make educational or developmental services  
4 decisions for the minor pursuant to Section 726.

5 (7) When the minor is 16 years of age or older and in another  
6 planned permanent living arrangement, the social study shall  
7 include a description of all of the following:

8 (A) The intensive and ongoing efforts, including child-centered  
9 specialized permanency services, as defined in Section 11400, to  
10 return the minor to the home of the parent, place the minor for  
11 adoption, or establish a legal guardianship, as appropriate.

12 (B) The steps taken to do both of the following:

13 (i) Ensure that the minor's care provider is following the  
14 reasonable and prudent parent standard.

15 (ii) Determine whether the minor has regular, ongoing  
16 opportunities to engage in age or developmentally appropriate  
17 activities, including consulting with the minor about opportunities  
18 for the minor to participate in the activities.

19 (8) When the minor is under 16 years of age and has a permanent  
20 plan of return home, adoption, legal guardianship, or placement  
21 with a fit and willing relative, the social study shall include a  
22 description of any barriers to achieving the permanent plan and  
23 the efforts made by the agency to address those barriers.

24 (d) At each permanency planning hearing, the social study shall  
25 include, but not be limited to, an updated case plan as described  
26 in Section 706.6, the factual material described in subdivision (c)  
27 of this section, and a recommended permanent plan for the minor.

28 SEC. 11. Section 706.6 of the Welfare and Institutions Code  
29 is amended to read:

30 706.6. (a) Services to minors are best provided in a framework  
31 that integrates service planning and delivery among multiple  
32 service systems, including the mental health system, using a  
33 team-based approach, such as a child and family team. A child  
34 and family team brings together individuals that engage with the  
35 child or youth and family in assessing, planning, and delivering  
36 services. Use of a team approach increases efficiency, and thus  
37 reduces cost, by increasing coordination of formal services and  
38 integrating the natural and informal supports available to the child  
39 or youth and family.

1 (b) (1) For the purposes of this section, “child and family team”  
2 has the same meaning as in paragraph (4) of subdivision (a) of  
3 Section 16501.

4 (2) In its development of the case plan, the probation agency  
5 shall consider any recommendations of the child and family team,  
6 as defined in paragraph (4) of subdivision (a) of Section 16501.  
7 The agency shall document the rationale for any inconsistencies  
8 between the case plan and the child and family team  
9 recommendations.

10 (c) A case plan prepared as required by Section 706.5 shall be  
11 submitted to the court. It shall either be attached to the social study  
12 or incorporated as a separate section within the social study. The  
13 case plan shall include, but not be limited to, the following  
14 information:

15 (1) A description of the circumstances that resulted in the minor  
16 being placed under the supervision of the probation department  
17 and in foster care.

18 (2) Documentation of the preplacement assessment of the  
19 minor’s and family’s strengths and service needs showing that  
20 preventive services have been provided, and that reasonable efforts  
21 to prevent out-of-home placement have been made. The assessment  
22 shall include the type of placement best equipped to meet those  
23 needs.

24 (3) (A) A description of the type of home or institution in which  
25 the minor is to be placed, and the reasons for that placement  
26 decision, including a discussion of the safety and appropriateness  
27 of the placement, including the recommendations of the child and  
28 family team, if available.

29 (B) An appropriate placement is a placement in the least  
30 restrictive, most family-like environment that promotes normal  
31 childhood experiences, in closest proximity to the minor’s home,  
32 that meets the minor’s best interests and special needs.

33 (d) The following shall apply:

34 (1) The agency selecting a placement shall consider, in order  
35 of priority:

36 (A) Placement with relatives, nonrelated extended family  
37 members, and tribal members.

38 (B) Foster family homes and certified homes or resource families  
39 of foster family agencies.

1 (C) Treatment and intensive treatment certified homes or  
2 resource families of foster family agencies, or multidimensional  
3 treatment foster homes or therapeutic foster care homes.

4 (D) Group care placements in the following order:

5 (i) Short-term residential treatment centers.

6 (ii) Group homes.

7 (iii) Community treatment facilities.

8 (iv) Out-of-state residential treatment pursuant to Part 5  
9 (commencing with Section 7900) of Division 12 of the Family  
10 Code.

11 (2) Although the placement options shall be considered in the  
12 preferential order specified in paragraph (1), the placement of a  
13 child may be with any of these placement settings in order to ensure  
14 the selection of a safe placement setting that is in the child's best  
15 interests and meets the child's special needs.

16 (3) A minor may be placed into a community care facility  
17 licensed as a short-term residential treatment center, as defined in  
18 subdivision (ad) of Section 11400, provided the case plan indicates  
19 that the placement is for the purposes of providing short-term,  
20 specialized, and intensive treatment for the minor, the case plan  
21 specifies the need for, nature of, and anticipated duration of this  
22 treatment, and the case plan includes transitioning the minor to a  
23 less restrictive environment and the projected timeline by which  
24 the minor will be transitioned to a less restrictive environment.

25 (e) Effective January 1, 2010, a case plan shall ensure the  
26 educational stability of the child while in foster care and shall  
27 include both of the following:

28 (1) Assurances that the placement takes into account the  
29 appropriateness of the current educational setting and the proximity  
30 to the school in which the child is enrolled at the time of placement.

31 (2) An assurance that the placement agency has coordinated  
32 with appropriate local educational agencies to ensure that the child  
33 remains in the school in which the child is enrolled at the time of  
34 placement, or, if remaining in that school is not in the best interests  
35 of the child, assurances by the placement agency and the local  
36 educational agency to provide immediate and appropriate  
37 enrollment in a new school and to provide all of the child's  
38 educational records to the new school.

39 (f) Specific time-limited goals and related activities designed  
40 to enable the safe return of the minor to his or her home, or in the

1 event that return to his or her home is not possible, activities  
2 designed to result in permanent placement or emancipation.  
3 Specific responsibility for carrying out the planned activities shall  
4 be assigned to one or more of the following:

- 5 (1) The probation department.
- 6 (2) The minor's parent or parents or legal guardian or guardians,  
7 as applicable.
- 8 (3) The minor.

9 (4) The foster parents or licensed agency providing foster care.  
10 (g) The projected date of completion of the case plan objectives  
11 and the date services will be terminated.

12 (h) (1) Scheduled visits between the minor and his or her family  
13 and an explanation if no visits are made.

14 (2) Whether the child has other siblings, and, if any siblings  
15 exist, all of the following:

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

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

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

24 (D) If the siblings are not placed together, all of the following:

25 (i) The frequency and nature of the visits between the siblings.

26 (ii) If there are visits between the siblings, whether the visits  
27 are supervised or unsupervised. If the visits are supervised, a  
28 discussion of the reasons why the visits are ~~supervised~~, *supervised*  
29 and what needs to be accomplished in order for the visits to be  
30 unsupervised.

31 (iii) If there are visits between the siblings, a description of the  
32 location and length of the visits.

33 (iv) Any plan to increase visitation between the siblings.

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

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

38 (3) The factors the court may consider in making a determination  
39 regarding the nature of the child's sibling relationships may  
40 include, but are not limited to, whether the siblings were raised

1 together in the same home, whether the siblings have shared  
2 significant common experiences or have existing close and strong  
3 bonds, whether either sibling expresses a desire to visit or live with  
4 his or her sibling, as applicable, and whether ongoing contact is  
5 in the child's best emotional interests.

6 (i) (1) When placement is made in a foster family home, group  
7 home, or other child care institution that is either a substantial  
8 distance from the home of the minor's parent or legal guardian or  
9 out of state, the case plan shall specify the reasons why the  
10 placement is the most appropriate and is in the best interest of the  
11 minor.

12 (2) When an out-of-state group home placement is recommended  
13 or made, the case plan shall comply with Section 727.1 of this  
14 code and Section 7911.1 of the Family Code. In addition,  
15 documentation of the recommendation of the multidisciplinary  
16 team and the rationale for this particular placement shall be  
17 included. The case plan shall also address what in-state services  
18 or facilities were used or considered and why they were not  
19 recommended.

20 (j) If applicable, efforts to make it possible to place siblings  
21 together, unless it has been determined that placement together is  
22 not in the best interest of one or more siblings.

23 (k) A schedule of visits between the minor and the probation  
24 officer, including a monthly visitation schedule for those children  
25 placed in group homes.

26 (l) Health and education information about the minor, school  
27 records, immunizations, known medical problems, and any known  
28 medications the minor may be taking, names and addresses of the  
29 minor's health and educational providers; the minor's grade level  
30 performance; assurances that the minor's placement in foster care  
31 takes into account proximity to the school in which the minor was  
32 enrolled at the time of placement; and other relevant health and  
33 educational information.

34 (m) When out-of-home services are used and the goal is  
35 reunification, the case plan shall describe the services that were  
36 provided to prevent removal of the minor from the home, those  
37 services to be provided to assist in reunification and the services  
38 to be provided concurrently to achieve legal permanency if efforts  
39 to reunify fail.

1 (n) (1) The updated case plan prepared for a permanency  
2 planning hearing shall include a recommendation for a permanent  
3 plan for the minor. The identified permanent plan for a minor under  
4 16 years of age shall be return home, adoption, legal guardianship,  
5 or placement with a fit and willing relative. The case plan shall  
6 identify any barriers to achieving legal permanence and the steps  
7 the agency will take to address those barriers.

8 (2) If, after considering reunification, adoptive placement, legal  
9 guardianship, or permanent placement with a fit and willing relative  
10 the probation officer recommends placement in a planned  
11 permanent living arrangement for a minor 16 years of age or older,  
12 the case plan shall include documentation of a compelling reason  
13 or reasons why termination of parental rights is not in the minor's  
14 best interest. For purposes of this subdivision, a "compelling  
15 reason" shall have the same meaning as in subdivision (c) of  
16 Section 727.3. The case plan shall also identify the intensive and  
17 ongoing efforts, including the provision of child-centered  
18 specialized permanency services, as described Section 11400, to  
19 return the minor to the home of the parent, place the minor for  
20 adoption, establish a legal guardianship, or place the minor with  
21 a fit and willing relative, as appropriate. Efforts shall include the  
22 use of technology, including social media, to find biological family  
23 members of the minor.

24 (o) Each updated case plan shall include a description of the  
25 services that have been provided to the minor under the plan and  
26 an evaluation of the appropriateness and effectiveness of those  
27 services.

28 (p) A statement that the parent or legal ~~guardian~~, *guardian* and  
29 the minor have had an opportunity to participate in the development  
30 of the case plan, to review the case plan, to sign the case plan, and  
31 to receive a copy of the plan, or an explanation about why the  
32 parent, legal guardian, or minor was not able to participate or sign  
33 the case plan.

34 (q) For a minor in out-of-home care who is 16 years of age or  
35 older, a written description of the programs and services, which  
36 will help the minor prepare for the transition from foster care to  
37 successful adulthood.

38 SEC. 12. Section 727.2 of the Welfare and Institutions Code  
39 is amended to read:

1     727.2. The purpose of this section is to provide a means to  
2 monitor the safety and well-being of every minor in foster care  
3 who has been declared a ward of the juvenile court pursuant to  
4 Section 601 or 602 and to ensure that everything reasonably  
5 possible is done to facilitate the safe and early return of the minor  
6 to his or her home or to establish an alternative permanent plan  
7 for the minor.

8     (a) If the court orders the care, custody, and control of the minor  
9 to be under the supervision of the probation officer for placement  
10 pursuant to subdivision (a) of Section 727, the juvenile court shall  
11 order the probation department to ensure the provision of  
12 reunification services to facilitate the safe return of the minor to  
13 his or her home or the permanent placement of the minor, and to  
14 address the needs of the minor while in foster care, except as  
15 provided in subdivision (b).

16     (b) Reunification services need not be provided to a parent or  
17 legal guardian if the court finds by clear and convincing evidence  
18 that one or more of the following is true:

19     (1) Reunification services were previously terminated for that  
20 parent or guardian, pursuant to Section 366.21, 366.22, or 366.25,  
21 or not offered, pursuant to subdivision (b) of Section 361.5, in  
22 reference to the same minor.

23     (2) The parent has been convicted of any of the following:

24     (A) Murder of another child of the parent.

25     (B) Voluntary manslaughter of another child of the parent.

26     (C) Aiding or abetting, attempting, conspiring, or soliciting to  
27 commit that murder or manslaughter described in subparagraph  
28 (A) or (B).

29     (D) A felony assault that results in serious bodily injury to the  
30 minor or another child of the parent.

31     (3) The parental rights of the parent with respect to a sibling  
32 have been terminated involuntarily, and it is not in the best interest  
33 of the minor to reunify with his or her parent or legal guardian.

34     If no reunification services are offered to the parent or guardian,  
35 the permanency planning hearing, as described in Section 727.3,  
36 shall occur within 30 days of the date of the hearing at which the  
37 decision is made not to offer services.

38     (c) The status of every minor declared a ward and ordered to  
39 be placed in foster care shall be reviewed by the court no less  
40 frequently than once every six months. The six-month time periods

1 shall be calculated from the date the minor entered foster care, as  
2 defined in paragraph (4) of subdivision (d) of Section 727.4. If the  
3 court so elects, the court may declare the hearing at which the court  
4 orders the care, custody, and control of the minor to be under the  
5 supervision of the probation officer for foster care placement  
6 pursuant to subdivision (a) of Section 727 at the first status review  
7 hearing. It shall be the duty of the probation officer to prepare a  
8 written social study report including an updated case plan, pursuant  
9 to subdivision (b) of Section 706.5, and submit the report to the  
10 court prior to each status review hearing, pursuant to subdivision  
11 (b) of Section 727.4. The social study report shall include all  
12 reports the probation officer relied upon in making his or her  
13 recommendations.

14 (d) Prior to any status review hearing involving a minor in the  
15 physical custody of a community care facility or foster family  
16 agency, the facility or agency may provide the probation officer  
17 with a report containing its recommendations. Prior to any status  
18 review hearing involving the physical custody of a foster parent,  
19 relative caregiver, preadoptive parent, or legal guardian, that person  
20 may present to the court a report containing his or her  
21 recommendations. The court shall consider all reports and  
22 recommendations filed pursuant to subdivision (c) and pursuant  
23 to this subdivision.

24 (e) At any status review hearing prior to the first permanency  
25 planning hearing, the court shall consider the safety of the minor  
26 and make findings and orders which determine the following:

27 (1) The continuing necessity for and appropriateness of the  
28 placement.

29 (2) The extent of the probation department's compliance with  
30 the case plan in making reasonable efforts, ~~or~~ in the case of a  
31 child 16 years of age or older with another planned permanent  
32 living arrangement, the ongoing and intensive efforts, including  
33 provision of child-centered specialized permanency services, as  
34 defined in Section 11400, to safely return the minor to the minor's  
35 home or to complete whatever steps are necessary to finalize the  
36 permanent placement of the minor.

37 (3) Whether there should be any limitation on the right of the  
38 parent or guardian to make educational decisions for the minor.  
39 That limitation shall be specifically addressed in the court order  
40 and may not exceed what is necessary to protect the minor. If the

1 court specifically limits the right of the parent or guardian to make  
2 educational decisions for the minor, the court shall at the same  
3 time appoint a responsible adult to make educational decisions for  
4 the minor pursuant to Section 726.

5 (4) The extent of progress that has been made by the minor and  
6 parent or guardian toward alleviating or mitigating the causes  
7 necessitating placement in foster care.

8 (5) The likely date by which the minor may be returned to and  
9 safely maintained in the home or placed for adoption, appointed  
10 a legal guardian, permanently placed with a fit and willing relative,  
11 or, if the minor is 16 years of age or older, referred to another  
12 planned permanent living arrangement with the provision of  
13 child-centered specialized permanency services, as defined in  
14 Section 11400.

15 (6) In the case of a minor who has reached 16 years of age, the  
16 court shall, in addition, determine the services needed to assist the  
17 minor to make the transition from foster care to successful  
18 adulthood.

19 The court shall make these determinations on a case-by-case  
20 basis and reference in its written findings the probation officer's  
21 report and any other evidence relied upon in reaching its decision.

22 (f) At any status review hearing prior to the first permanency  
23 hearing, after considering the admissible and relevant evidence,  
24 the court shall order return of the minor to the physical custody of  
25 his or her parent or legal guardian unless the court finds, by a  
26 preponderance of evidence, that the return of the minor to his or  
27 her parent or legal guardian would create a substantial risk of  
28 detriment to the safety, protection, or physical or emotional  
29 well-being of the minor. The probation department shall have the  
30 burden of establishing that detriment. In making its determination,  
31 the court shall review and consider the social study report,  
32 recommendations, and the case plan pursuant to subdivision (b)  
33 of Section 706.5, the report and recommendations of any child  
34 advocate appointed for the minor in the case, and any other reports  
35 submitted to the court pursuant to subdivision (d), and shall  
36 consider the efforts or progress, or both, demonstrated by the minor  
37 and family and the extent to which the minor availed himself or  
38 herself of the services provided.

39 (g) At all status review hearings subsequent to the first  
40 permanency planning hearing, the court shall consider the safety

1 of the minor and make the findings and orders as described in  
2 paragraphs (1) to (4), inclusive, and (6) of subdivision (e). The  
3 court shall either make a finding that the previously ordered  
4 permanent plan continues to be appropriate or shall order that a  
5 new permanent plan be adopted pursuant to subdivision (b) of  
6 Section 727.3. However, the court shall not order a permanent plan  
7 of “return to the physical custody of the parent or legal guardian  
8 after further reunification services are offered,” as described in  
9 paragraph (2) of subdivision (b) of Section 727.3.

10 (h) The status review hearings required by subdivision (c) may  
11 be heard by an administrative review panel, provided that the  
12 administrative panel meets all of the requirements listed in  
13 subparagraph (B) of paragraph (7) of subdivision (d) of Section  
14 727.4.

15 (i) (1) On and after January 1, 2012, at any status review hearing  
16 at which a recommendation to terminate delinquency jurisdiction  
17 is being considered, or at the status review hearing held closest to  
18 the ward attaining 18 years of age, but no fewer than 90 days before  
19 the ward’s 18th birthday, the court shall consider whether to modify  
20 its jurisdiction pursuant to Section 601 or 602 and assume transition  
21 jurisdiction over the minor pursuant to Section 450. The probation  
22 department shall address this issue in its report to the court and  
23 make a recommendation as to whether transition jurisdiction is  
24 appropriate for the minor.

25 (2) The court shall order the probation department or the minor’s  
26 attorney to submit an application to the child welfare services  
27 department pursuant to Section 329 to declare the minor a  
28 dependent of the court and modify its jurisdiction from delinquency  
29 to dependency jurisdiction if it finds both of the following:

30 (A) The ward does not come within the description set forth in  
31 Section 450, but jurisdiction as a ward may no longer be required.

32 (B) The ward appears to come within the description of Section  
33 300 and cannot be returned home safely.

34 (3) The court shall set a hearing within 20 judicial days of the  
35 date of its order issued pursuant to paragraph (2) to review the  
36 decision of the child welfare services department and may either  
37 affirm the decision not to file a petition pursuant to Section 300  
38 or order the child welfare services department to file a petition  
39 pursuant to Section 300.

(j) On and after January 1, 2012, if a review hearing pursuant to this section is the last review hearing to be held before the minor attains 18 years of age, the court shall ensure that the minor's transitional independent living case plan includes a plan for the minor to meet one or more of the criteria in paragraphs (1) to (5), inclusive, of subdivision (b) of Section 11403, so that the minor can become a nonminor dependent, and that the minor has been informed of his or her right to decline to become a nonminor dependent and to seek termination of the court's jurisdiction pursuant to Section 607.2.

SEC. 13. Section 727.3 of the Welfare and Institutions Code is amended to read:

727.3. The purpose of this section is to provide a means to monitor the safety and well-being of every minor in foster care who has been declared a ward of the juvenile court pursuant to Section 601 or 602 and to ensure that everything reasonably possible is done to facilitate the safe and early return of the minor to his or her own home or to establish an alternative permanent plan for the minor.

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

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

1 court shall consider all reports and recommendations filed pursuant  
2 to this subdivision.

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

9 (4) At each permanency planning hearing, the court shall order  
10 a permanent plan for the minor, as described in subdivision (b).  
11 The court shall also make findings, as described in subdivision (e)  
12 of Section 727.2. In the case of a minor who has reached 16 years  
13 of age or older, the court shall, in addition, determine the services  
14 needed to assist the minor to make the transition from foster care  
15 to successful adulthood. The court shall make all of these  
16 determinations on a case-by-case basis and make reference to the  
17 probation officer's report, the case plan, or other evidence relied  
18 upon in making its decisions.

19 (5) When the minor is 16 years of age or older, and is in another  
20 planned permanent living arrangement, the court, at each  
21 permanency planning hearing, shall do all of the following:

22 (A) Ask the minor about his or her desired permanency outcome.

23 (B) Review documentation of intensive and ongoing efforts,  
24 including the provision of child-centered specialized permanency  
25 services, as defined in Section 11400, to place the child in a  
26 permanent family.

27 (C) Make a judicial determination explaining why, as of the  
28 hearing date, another planned permanent living arrangement is the  
29 best permanency plan for the minor.

30 (D) State for the record the compelling reason or reasons why  
31 it continues not to be in the best interest of the minor to return  
32 home, be placed for adoption, be placed with a legal guardian, or  
33 be placed with a fit and willing relative.

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

38 (1) Return of the minor to the physical custody of the parent or  
39 legal guardian. After considering the admissible and relevant

1 evidence, the court shall order the return of the minor to the  
2 physical custody of his or her parent or legal guardian unless:

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

5 (B) The court finds, by a preponderance of the evidence, that  
6 the return of the minor to his or her parent or legal guardian would  
7 create a substantial risk of detriment to the safety, protection, or  
8 physical or emotional well-being of the minor. The probation  
9 department shall have the burden of establishing that detriment.  
10 In making its determination, the court shall review and consider  
11 the social study report and recommendations pursuant to Section  
12 706.5, the report and recommendations of any child advocate  
13 appointed for the minor in the case, and any other reports submitted  
14 pursuant to paragraph (2) of subdivision (a), and shall consider  
15 the efforts or progress, or both, demonstrated by the minor and  
16 family and the extent to which the minor availed himself or herself  
17 of the services provided.

18 (2) Order that the permanent plan for the minor will be to return  
19 the minor to the physical custody of the parent or legal guardian,  
20 order further reunification services to be provided to the minor  
21 and his or her parent or legal guardian for a period not to exceed  
22 six months and continue the case for up to six months for a  
23 subsequent permanency planning hearing, provided that the  
24 subsequent hearing shall occur within 18 months of the date the  
25 minor was originally taken from the physical custody of his or her  
26 parent or legal guardian. The court shall continue the case only if  
27 it finds that there is a substantial probability that the minor will be  
28 returned to the physical custody of his or her parent or legal  
29 guardian and safely maintained in the home within the extended  
30 period of time or that reasonable services have not been provided  
31 to the parent or guardian. For purposes of this section, in order to  
32 find that there is a substantial probability that the minor will be  
33 returned to the physical custody of his or her parent or legal  
34 guardian, the court shall be required to find that the minor and his  
35 or her parent or legal guardian have demonstrated the capacity and  
36 ability to complete the objectives of the case plan.

37 ~~The~~

38 (A) *The* court shall inform the parent or legal guardian that if  
39 the minor cannot be returned home by the next permanency

1 planning hearing, a proceeding pursuant to Section 727.31 may  
2 be initiated.

3 ~~The~~

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

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

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

18 (5) Place the minor with a fit and willing relative. “Placement  
19 with a fit and willing relative” means placing the minor with an  
20 appropriate approved relative who is willing to provide a permanent  
21 and stable home for the minor, but is unable or unwilling to become  
22 the legal guardian. When a minor is placed with a fit and willing  
23 relative, the court may authorize the relative to provide the same  
24 legal consent for the minor’s medical, surgical, and dental care,  
25 and education as the custodial parent of the minor.

26 (6) (A) (i) If he or she is 16 years of age or older, place the  
27 minor in another planned permanent living arrangement. For  
28 purposes of this section, “planned permanent living arrangement”  
29 means any permanent living arrangement described in Section  
30 11402 that is ordered by the court for a minor 16 years of age or  
31 older when there is a compelling reason or reasons to determine  
32 that it is not in the best interest of the minor to have any permanent  
33 plan listed in paragraphs (1) to (5), inclusive. These plans include,  
34 but are not limited to, placement in a specific, identified foster  
35 family home, program, or facility on a permanent basis, or  
36 placement in a transitional housing placement facility. When the  
37 court places a minor in a planned permanent living arrangement,  
38 the court shall specify the goal of the placement, which may  
39 include, but shall not be limited to, return home, emancipation,  
40 guardianship, or permanent placement with a relative.

1     The

2     (ii) *The* court shall only order that the minor remain in a planned  
3 permanent living arrangement if the court finds by clear and  
4 convincing evidence, based upon the evidence already presented  
5 to it that there is a compelling reason, as defined in subdivision  
6 (c), for determining that a plan of termination of parental rights  
7 and adoption is not in the best interest of the minor. If the court  
8 orders that the minor remain in another planned permanent living  
9 arrangement, the court shall order the provision of child-centered  
10 permanency services, as defined in Section 11400, and that the  
11 appropriateness of the child's continuation in a planned permanent  
12 living arrangement be assessed again at the next permanency  
13 planning hearing.

14     (B) If the minor is under 16 years of age and the court finds by  
15 clear and convincing evidence, based upon the evidence already  
16 presented to it, that there is a compelling reason, as defined in  
17 subdivision (c), for determining that a plan of termination of  
18 parental rights and adoption is not in the best interest of the minor  
19 as of the hearing date, the court shall order the minor to remain in  
20 a foster care placement with a permanent plan of return home,  
21 adoption, legal guardianship, or placement with a fit and willing  
22 relative, as appropriate. The court shall make factual findings  
23 identifying any barriers to achieving the permanent plan as of the  
24 hearing date and shall order the provision of child-centered  
25 specialized permanency services unless the minor is currently  
26 placed with a fit and willing relative.

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

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

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

36     (B) The minor is 17 years of age or older and specifically  
37 requests that transition to independent living with the identification  
38 of a caring adult to serve as a lifelong connection be established  
39 as his or her permanent plan. On and after January 1, 2012, this  
40 includes a minor who requests that his or her transitional

1 independent living case plan include modification of his or her  
2 jurisdiction to that of dependency jurisdiction pursuant to  
3 subdivision (b) of Section 607.2 or subdivision (i) of Section 727.2,  
4 or to that of transition jurisdiction pursuant to Section 450, in order  
5 to be eligible as a nonminor dependent for the extended benefits  
6 pursuant to Section 11403.

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

12 (D) The minor agrees to continued placement in a residential  
13 treatment facility that provides services specifically designed to  
14 address the minor's treatment needs, including child-centered  
15 specialized permanency services, as defined in Section 11400, and  
16 the minor's needs could not be served by a less restrictive  
17 placement.

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

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

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

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

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

(d) Nothing in this section shall be construed to limit the ability of a parent to voluntarily relinquish his or her child to the State Department of Social Services when it is acting as an adoption agency or to a county adoption agency at any time while the minor is a ward of the juvenile court if the department or county adoption agency is willing to accept the relinquishment.

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

SEC. 14. Section 11400 of the Welfare and Institutions Code is amended to read:

11400. For purposes of this article, the following definitions shall apply:

(a) “Aid to Families with Dependent Children-Foster Care (AFDC-FC)” means the aid provided on behalf of needy children in foster care under the terms of this division.

(b) “Case plan” means a written document that, at a minimum, specifies the type of home in which the child shall be placed, the safety of that home, and the appropriateness of that home to meet the child’s needs. It shall also include the agency’s plan for ensuring that the child receive proper care and protection in a safe environment, and shall set forth the appropriate services to be provided to the child, the child’s family, and the foster parents, in order to meet the child’s needs while in foster care, and to reunify the child with the child’s family. In addition, the plan shall specify the services that will be provided or steps that will be taken to facilitate an alternate permanent plan if reunification is not possible.

(c) “Certified family home” means a family residence certified by a licensed foster family agency and issued a certificate of approval by that agency as meeting licensing standards, and used only by that foster family agency for placements.

(d) “Family home” means the family residence of a licensee in which 24-hour care and supervision are provided for children.

(e) “Small family home” means any residential facility, in the licensee’s family residence, which provides 24-hour care for six

1 or fewer foster children who have mental disorders or  
2 developmental or physical disabilities and who require special care  
3 and supervision as a result of their disabilities.

4 (f) “Foster care” means the 24-hour out-of-home care provided  
5 to children whose own families are unable or unwilling to care for  
6 them, and who are in need of temporary or long-term substitute  
7 parenting.

8 (g) “Foster family agency” means a licensed community care  
9 facility, as defined in paragraph (4) of subdivision (a) of Section  
10 1502 of the Health and Safety Code. Private foster family agencies  
11 shall be organized and operated on a nonprofit basis.

12 (h) “Group home” means a nondetention privately operated  
13 residential home, organized and operated on a nonprofit basis only,  
14 of any capacity, or a nondetention licensed residential care home  
15 operated by the County of San Mateo with a capacity of up to 25  
16 beds, that accepts children in need of care and supervision in a  
17 group home, as defined by paragraph (13) of subdivision (a) of  
18 Section 1502 of the Health and Safety Code.

19 (i) “Periodic review” means review of a child’s status by the  
20 juvenile court or by an administrative review panel, that shall  
21 include a consideration of the safety of the child, a determination  
22 of the continuing need for placement in foster care, evaluation of  
23 the goals for the placement and the progress toward meeting these  
24 goals, and development of a target date for the child’s return home  
25 or establishment of alternative permanent placement.

26 (j) “Permanency planning hearing” means a hearing conducted  
27 by the juvenile court in which the child’s future status, including  
28 whether the child shall be returned home or another permanent  
29 plan shall be developed, is determined.

30 (k) “Placement and care” refers to the responsibility for the  
31 welfare of a child vested in an agency or organization by virtue of  
32 the agency or organization having (1) been delegated care, custody,  
33 and control of a child by the juvenile court, (2) taken responsibility,  
34 pursuant to a relinquishment or termination of parental rights on  
35 a child, (3) taken the responsibility of supervising a child detained  
36 by the juvenile court pursuant to Section 319 or 636, or (4) signed  
37 a voluntary placement agreement for the child’s placement; or to  
38 the responsibility designated to an individual by virtue of his or  
39 her being appointed the child’s legal guardian.

1 (l) “Preplacement preventive services” means services that are  
2 designed to help children remain with their families by preventing  
3 or eliminating the need for removal.

4 (m) “Relative” means an adult who is related to the child by  
5 blood, adoption, or affinity within the fifth degree of kinship,  
6 including stepparents, stepsiblings, and all relatives whose status  
7 is preceded by the words “great,” “great-great,” or “grand” or the  
8 spouse of any of these persons even if the marriage was terminated  
9 by death or dissolution.

10 (n) “Nonrelative extended family member” means an adult  
11 caregiver who has an established familial or mentoring relationship  
12 with the child, as described in Section 362.7.

13 (o) “Voluntary placement” means an out-of-home placement  
14 of a child by (1) the county welfare department, probation  
15 department, or Indian tribe that has entered into an agreement  
16 pursuant to Section 10553.1, after the parents or guardians have  
17 requested the assistance of the county welfare department and have  
18 signed a voluntary placement agreement; or (2) the county welfare  
19 department licensed public or private adoption agency, or the  
20 department acting as an adoption agency, after the parents have  
21 requested the assistance of either the county welfare department,  
22 the licensed public or private adoption agency, or the department  
23 acting as an adoption agency for the purpose of adoption planning,  
24 and have signed a voluntary placement agreement.

25 (p) “Voluntary placement agreement” means a written agreement  
26 between either the county welfare department, probation  
27 department, or Indian tribe that has entered into an agreement  
28 pursuant to Section 10553.1, licensed public or private adoption  
29 agency, or the department acting as an adoption agency, and the  
30 parents or guardians of a child that specifies, at a minimum, the  
31 following:

32 (1) The legal status of the child.

33 (2) The rights and obligations of the parents or guardians, the  
34 child, and the agency in which the child is placed.

35 (q) “Original placement date” means the most recent date on  
36 which the court detained a child and ordered an agency to be  
37 responsible for supervising the child or the date on which an agency  
38 assumed responsibility for a child due to termination of parental  
39 rights, relinquishment, or voluntary placement.

1 (r) (1) “Transitional housing placement provider” means an  
2 organization licensed by the State Department of Social Services  
3 pursuant to Section 1559.110 of the Health and Safety Code, to  
4 provide transitional housing to foster children at least 16 years of  
5 age and not more than 18 years of age, and nonminor dependents,  
6 as defined in subdivision (v). A transitional housing placement  
7 provider shall be privately operated and organized on a nonprofit  
8 basis.

9 (2) Prior to licensure, a provider shall obtain certification from  
10 the applicable county, in accordance with Section 16522.1.

11 (s) “Transitional Housing Program-Plus” means a provider  
12 certified by the applicable county, in accordance with subdivision  
13 (c) of Section 16522, to provide transitional housing services to  
14 former foster youth who have exited the foster care system on or  
15 after their 18th birthday.

16 (t) “Whole family foster home” means a new or existing family  
17 home, approved relative caregiver or nonrelative extended family  
18 member’s home, the home of a nonrelated legal guardian whose  
19 guardianship was established pursuant to Section 360 or 366.26,  
20 certified family home, or a host family home placement of a  
21 transitional housing placement provider, that provides foster care  
22 for a minor or nonminor dependent parent and his or her child,  
23 and is specifically recruited and trained to assist the minor or  
24 nonminor dependent parent in developing the skills necessary to  
25 provide a safe, stable, and permanent home for his or her child.  
26 The child of the minor or nonminor dependent parent need not be  
27 the subject of a petition filed pursuant to Section 300 to qualify  
28 for placement in a whole family foster home.

29 (u) “Mutual agreement” means any of the following:

30 (1) A written voluntary agreement of consent for continued  
31 placement and care in a supervised setting between a minor or, on  
32 and after January 1, 2012, a nonminor dependent, and the county  
33 welfare services or probation department or tribal agency  
34 responsible for the foster care placement, that documents the  
35 nonminor’s continued willingness to remain in supervised  
36 out-of-home placement under the placement and care of the  
37 responsible county, tribe, consortium of tribes, or tribal  
38 organization that has entered into an agreement with the state  
39 pursuant to Section 10553.1, remain under the jurisdiction of the  
40 juvenile court as a nonminor dependent, and report any change of

1 circumstances relevant to continued eligibility for foster care  
2 payments, and that documents the nonminor's and social worker's  
3 or probation officer's agreement to work together to facilitate  
4 implementation of the mutually developed supervised placement  
5 agreement and transitional independent living case plan.

6 (2) An agreement, as described in paragraph (1), between a  
7 nonminor former dependent or ward in receipt of Kin-GAP  
8 payments under Article 4.5 (commencing with Section 11360) or  
9 Article 4.7 (commencing with Section 11385), and the agency  
10 responsible for the Kin-GAP benefits, provided that the nonminor  
11 former dependent or ward satisfies the conditions described in  
12 Section 11403.01, or one or more of the conditions described in  
13 paragraphs (1) to (5), inclusive, of subdivision (b) of Section  
14 11403. For purposes of this paragraph and paragraph (3),  
15 "nonminor former dependent or ward" has the same meaning as  
16 described in subdivision (aa).

17 (3) An agreement, as described in paragraph (1), between a  
18 nonminor former dependent or ward in receipt of AFDC-FC  
19 payments under subdivision (e) or (f) of Section 11405 and the  
20 agency responsible for the AFDC-FC benefits, provided that the  
21 nonminor former dependent or ward described in subdivision (e)  
22 of Section 11405 satisfies one or more of the conditions described  
23 in paragraphs (1) to (5), inclusive, of subdivision (b) of Section  
24 11403, and the nonminor described in subdivision (f) of Section  
25 11405 satisfies the secondary school or equivalent training or  
26 certificate program conditions described in that subdivision.

27 (v) "Nonminor dependent" means, on and after January 1, 2012,  
28 a foster child, as described in Section 675(8)(B) of Title 42 of the  
29 United States Code under the federal Social Security Act who is  
30 a current dependent child or ward of the juvenile court, or who is  
31 a nonminor under the transition jurisdiction of the juvenile court,  
32 as described in Section 450, and who satisfies all of the following  
33 criteria:

34 (1) He or she has attained 18 years of age while under an order  
35 of foster care placement by the juvenile court, and is not more than  
36 19 years of age on or after January 1, 2012, not more than 20 years  
37 of age on or after January 1, 2013, or not more than 21 years of  
38 age on or after January 1, 2014, and as described in Section  
39 10103.5.

1 (2) He or she is in foster care under the placement and care  
2 responsibility of the county welfare department, county probation  
3 department, Indian tribe, consortium of tribes, or tribal organization  
4 that entered into an agreement pursuant to Section 10553.1.

5 (3) He or she has a transitional independent living case plan  
6 pursuant to Section 475(8) of the federal Social Security Act (42  
7 U.S.C. Sec. 675(8)), as contained in the federal Fostering  
8 Connections to Success and Increasing Adoptions Act of 2008  
9 (Public Law 110-351), as described in Section 11403.

10 (w) “Supervised independent living placement” means, on and  
11 after January 1, 2012, an independent supervised setting, as  
12 specified in a nonminor dependent’s transitional independent living  
13 case plan, in which the youth is living independently, pursuant to  
14 Section 472(c)(2) of the federal Social Security Act (42 U.S.C.  
15 Sec. 672(c)(2)).

16 (x) “Supervised independent living setting,” pursuant to Section  
17 472(c)(2) of the federal Social Security Act (42 U.S.C. Sec.  
18 672(c)(2)), includes both a supervised independent living  
19 placement, as defined in subdivision (w), and a residential housing  
20 unit certified by the transitional housing placement provider  
21 operating a Transitional Housing Placement-Plus Foster Care  
22 program, as described in paragraph (2) of subdivision (a) of Section  
23 16522.1.

24 (y) “Transitional independent living case plan” means, on or  
25 after January 1, 2012, a child’s case plan submitted for the last  
26 review hearing held before he or she reaches 18 years of age or  
27 the nonminor dependent’s case plan, updated every six months,  
28 that describes the goals and objectives of how the nonminor will  
29 make progress in the transition to living independently and assume  
30 incremental responsibility for adult decisionmaking, the  
31 collaborative efforts between the nonminor and the social worker,  
32 probation officer, or Indian tribal placing entity and the supportive  
33 services as described in the transitional independent living plan  
34 (TILP) to ensure active and meaningful participation in one or  
35 more of the eligibility criteria described in paragraphs (1) to (5),  
36 inclusive, of subdivision (b) of Section 11403, the nonminor’s  
37 appropriate supervised placement setting, and the nonminor’s  
38 permanent plan for transition to living independently, which  
39 includes maintaining or obtaining permanent connections to caring

1 and committed adults, as set forth in paragraphs (16) and (17) of  
2 subdivision (g) of Section 16501.1.

3 (z) “Voluntary reentry agreement” means a written voluntary  
4 agreement between a former dependent child or ward or a former  
5 nonminor dependent, who has had juvenile court jurisdiction  
6 terminated pursuant to Section 391, 452, or 607.2, and the county  
7 welfare or probation department or tribal placing entity that  
8 documents the nonminor’s desire and willingness to reenter foster  
9 care, to be placed in a supervised setting under the placement and  
10 care responsibility of the placing agency, the nonminor’s desire,  
11 willingness, and ability to immediately participate in one or more  
12 of the conditions of paragraphs (1) to (5), inclusive, of subdivision  
13 (b) of Section 11403, the nonminor’s agreement to work  
14 collaboratively with the placing agency to develop his or her  
15 transitional independent living case plan within 60 days of reentry,  
16 the nonminor’s agreement to report any changes of circumstances  
17 relevant to continued eligibility for foster care payments, and (1)  
18 the nonminor’s agreement to participate in the filing of a petition  
19 for juvenile court jurisdiction as a nonminor dependent pursuant  
20 to subdivision (e) of Section 388 within 15 judicial days of the  
21 signing of the agreement and the placing agency’s efforts and  
22 supportive services to assist the nonminor in the reentry process,  
23 or (2) if the nonminor meets the definition of a nonminor former  
24 dependent or ward, as described in subdivision (aa), the nonminor’s  
25 agreement to return to the care and support of his or her former  
26 juvenile court-appointed guardian and meet the eligibility criteria  
27 for AFDC-FC pursuant to subdivision (e) of Section 11405.

28 (aa) “Nonminor former dependent or ward” means, on and after  
29 January 1, 2012, either of the following:

30 (1) A nonminor who reached 18 years of age while subject to  
31 an order for foster care placement, and for whom dependency,  
32 delinquency, or transition jurisdiction has been terminated, and  
33 who is still under the general jurisdiction of the court.

34 (2) A nonminor who is over 18 years of age and, while a minor,  
35 was a dependent child or ward of the juvenile court when the  
36 guardianship was established pursuant to Section 360 or 366.26,  
37 or subdivision ~~(d)~~, (d) of Section ~~728~~ 728, and the juvenile court  
38 dependency or wardship was dismissed following the establishment  
39 of the guardianship.

1 (ab) “Runaway and homeless youth shelter” means a type of  
2 group home, as defined in paragraph (14) of subdivision (a) of  
3 Section 1502 of the Health and Safety Code, that is not an eligible  
4 placement option under Sections 319, 361.2, 450, and 727, and  
5 that is not eligible for AFDC-FC funding pursuant to subdivision  
6 (c) of Section 11402 or Section 11462.

7 (ac) “Transition dependent” is a minor between 17 years and  
8 five months and 18 years of age who is subject to the court’s  
9 transition jurisdiction under Section 450.

10 (ad) “Short-term residential treatment center” means a  
11 nondetention, licensed community care facility, as defined in  
12 paragraph (18) of subdivision (a) of Section 1502 of the Health  
13 and Safety Code, that provides short-term, specialized, and  
14 intensive treatment for the child or youth, when the child’s or  
15 youth’s case plan specifies the need for, nature of, and anticipated  
16 duration of this specialized treatment.

17 (ae) “Resource family” means an approved caregiver, as defined  
18 in subdivision (c) of Section 16519.5.

19 (af) “Core Services” mean services, made available to children,  
20 youth, and nonminor dependents either directly or secured through  
21 formal agreement with other agencies, which are trauma informed  
22 and culturally relevant as specified in Sections 11462 and 11463.

23 (ag) “Child-centered specialized permanency services” means  
24 services designed for, and with, the child to address the child’s  
25 history of trauma, separation, and loss. Those services shall include  
26 mental health services, as necessary, or other services that are  
27 needed to ameliorate impairments in significant areas of life  
28 functioning that may reduce the likelihood of the child achieving  
29 a permanent family. These services shall utilize family finding and  
30 engagement, including, but not limited to, using search technology  
31 and social media to locate family members, and child-specific  
32 recruitment to assist the child in achieving a permanent family  
33 through reunification, adoption, legal guardianship, or other  
34 lifelong connections to caring adults, including at least one adult  
35 who will provide a permanent, parent-like relationship for that  
36 child. These services include services designed to prepare the  
37 permanent family to meet the child’s needs, set appropriate  
38 expectations for before and after permanency, and stabilize the  
39 placement.

1 SEC. 15. Section 16501 of the Welfare and Institutions Code  
2 is amended to read:

3 16501. (a) (1) As used in this chapter, “child welfare services”  
4 means public social services that are directed toward the  
5 accomplishment of any or all of the following purposes: protecting  
6 and promoting the welfare of all children, including disabled,  
7 homeless, dependent, or neglected children; preventing or  
8 remedying, or assisting in the solution of problems which may  
9 result in, the neglect, abuse, exploitation, or delinquency of  
10 children; preventing the unnecessary separation of children from  
11 their families by identifying family problems, assisting families  
12 in resolving their problems, and preventing breakup of the family  
13 where the prevention of child removal is desirable and possible;  
14 restoring to their families children who have been removed, by  
15 the provision of services to the child and the families; identifying  
16 children to be placed in suitable adoptive homes, in cases where  
17 restoration to the biological family is not possible or appropriate;  
18 and ensuring adequate care of children away from their homes, in  
19 cases where the child cannot be returned home or cannot be placed  
20 for adoption.

21 (2) “Child welfare services” also means services provided on  
22 behalf of children alleged to be the victims of child abuse, neglect,  
23 or exploitation. The child welfare services provided on behalf of  
24 each child represent a continuum of services, including emergency  
25 response services, family preservation services, family maintenance  
26 services, family reunification services, and permanent placement  
27 services, including supportive transition services. The individual  
28 child’s case plan is the guiding principle in the provision of these  
29 services. The case plan shall be developed within a maximum of  
30 60 days of the initial removal of the child or of the in-person  
31 response required under subdivision (f) if the child has not been  
32 removed from his or her home, or by the date of the dispositional  
33 hearing pursuant to Section 358, whichever comes first.

34 (3) “Child welfare services” are best provided in a framework  
35 that integrates service planning and delivery among multiple  
36 service systems, including the mental health system, using a  
37 team-based approach, such as a child and family team. A child  
38 and family team brings together individuals that engage with the  
39 child or youth and family in assessing, planning, and delivering  
40 services consistent with paragraph (1) of subdivision (d) of Section

1 16501.1. Use of a team approach increases efficiency, and thus  
2 reduces cost, by increasing coordination of formal services and  
3 integrating the natural and informal supports available to the child  
4 or youth and family.

5 (4) “Child and family team” means a group of individuals who  
6 are convened by the placing agency and who are engaged through  
7 a variety of team-based processes to identify the strengths and  
8 needs of the child or youth and his or her family, and to help  
9 achieve positive outcomes for safety, permanency, and well-being.

10 (A) The activities of the team shall include, but not be limited  
11 to, both of the following:

12 (i) Providing input into the development of a child and family  
13 plan that is strengths-based, needs-driven, and culturally relevant.

14 (ii) Providing input into the placement decision made by the  
15 placing agency and the services to be provided in order to support  
16 the child or youth.

17 (B) The child and family team process shall engage the child  
18 or youth, the child’s family, and other people important to the  
19 family or to the child or youth in meeting the objectives set forth  
20 in subparagraph (A). The child and family team shall also include  
21 representatives who provide formal supports to the child or youth  
22 and family when appropriate, including, but not limited to, the  
23 caregiver, the placing agency caseworker, a representative from a  
24 foster family agency or short-term residential treatment center with  
25 which a child or youth is placed, a county mental health  
26 representative, a representative from the regional center when the  
27 child is eligible for regional center service, and a representative  
28 of the child’s or youth’s tribe or Indian custodian, as applicable.  
29 As appropriate, the child and family team also may include other  
30 formal supports, such as substance use disorder treatment  
31 professionals and educational professionals, providing services to  
32 the child or youth and family. For purposes of this definition, the  
33 child and family team also may include extended family and  
34 informal support persons, such as friends, coaches, faith-based  
35 connections, and tribes as identified by the child or youth and  
36 family. If placement into a short-term residential treatment center  
37 or a foster family agency that provides treatment services has  
38 occurred or is being considered, the mental health representative  
39 is required to be a licensed mental health professional. Any party  
40 to the child’s case who is represented by an attorney may consult

1 with his or her attorney regarding this process. The child or youth  
2 and his or her family may request specific persons to be included  
3 on the child and family team. Nothing shall preclude another  
4 agency serving the child or youth from convening a team in  
5 collaboration with the placing agency.

6 (5) Child welfare services may include, but are not limited to,  
7 a range of service-funded activities, including case management,  
8 counseling, emergency shelter care, emergency in-home caretakers,  
9 temporary in-home caretakers, respite care, therapeutic day  
10 services, teaching and demonstrating homemakers, parenting  
11 training, substance abuse testing, and transportation. These  
12 service-funded activities shall be available to children and their  
13 families in all phases of the child welfare program in accordance  
14 with the child's case plan and departmental regulations. Funding  
15 for services is limited to the amount appropriated in the annual  
16 Budget Act and other available county funds.

17 (6) Service-funded activities to be provided may be determined  
18 by each county, based upon individual child and family needs as  
19 reflected in the service plan.

20 (7) As used in this chapter, "emergency shelter care" means  
21 emergency shelter provided to children who have been removed  
22 pursuant to Section 300 from their parent or parents or their  
23 guardian or guardians. The department may establish, by  
24 regulation, the time periods for which emergency shelter care shall  
25 be funded. For the purposes of this paragraph, "emergency shelter  
26 care" may include "transitional shelter care facilities" as defined  
27 in paragraph (11) of subdivision (a) of Section 1502 of the Health  
28 and Safety Code.

29 (b) As used in this chapter, "respite care" means temporary care  
30 for periods not to exceed 72 hours, and, in order to preserve the  
31 placement, may be extended up to 14 days in any one month  
32 pending the development of policies and regulations in consultation  
33 with county placing agencies and stakeholders. This care may be  
34 provided to the child's parents or guardians. This care shall not be  
35 limited by regulation to care over 24 hours. These services shall  
36 not be provided for the purpose of routine, ongoing child care.

37 (c) The county shall provide child welfare services as needed  
38 pursuant to an approved service plan and in accordance with  
39 regulations promulgated, in consultation with the counties, by the  
40 department. Counties may contract for service-funded activities

1 as defined in paragraph (1) of subdivision (a). Counties shall not  
2 contract for needs assessment, client eligibility determination, or  
3 any other activity as specified by regulations of the State  
4 Department of Social Services, except as specifically authorized  
5 in Section 16100.

6 (d) Nothing in this chapter shall be construed to affect duties  
7 which are delegated to probation officers pursuant to Sections 601  
8 and 654.

9 (e) Any county may utilize volunteer individuals to supplement  
10 professional child welfare services by providing ancillary support  
11 services in accordance with regulations adopted by the State  
12 Department of Social Services.

13 (f) As used in this chapter, emergency response services consist  
14 of a response system providing in-person response, 24 hours a day,  
15 seven days a week, to reports of abuse, neglect, or exploitation, as  
16 required by Article 2.5 (commencing with Section 11164) of  
17 Chapter 2 of Title 1 of Part 4 of the Penal Code for the purpose of  
18 investigation pursuant to Section 11166 of the Penal Code and to  
19 determine the necessity for providing initial intake services and  
20 crisis intervention to maintain the child safely in his or her own  
21 home or to protect the safety of the child. County welfare  
22 departments shall respond to any report of imminent danger to a  
23 child immediately and all other reports within 10 calendar days.  
24 An in-person response is not required when the county welfare  
25 department, based upon an evaluation of risk, determines that an  
26 in-person response is not appropriate. This evaluation includes  
27 collateral, contacts, a review of previous referrals, and other  
28 relevant information, as indicated.

29 (g) As used in this chapter, family maintenance services are  
30 activities designed to provide in-home protective services to  
31 prevent or remedy neglect, abuse, or exploitation, for the purposes  
32 of preventing separation of children from their families.

33 (h) As used in this chapter, family reunification services are  
34 activities designed to provide time-limited foster care services to  
35 prevent or remedy neglect, abuse, or exploitation, when the child  
36 cannot safely remain at home, and needs temporary foster care,  
37 while services are provided to reunite the family.

38 (i) (1) As used in this chapter, permanent placement services  
39 are activities designed to provide an alternate permanent family  
40 structure for children who because of abuse, neglect, or exploitation

1 cannot safely remain at home and who are unlikely to ever return  
2 home. These services shall be provided on behalf of children for  
3 whom there has been a judicial determination of a permanent plan  
4 for adoption, legal guardianship, placement with a fit and willing  
5 relative, or continued foster care placement, and, as ~~needed~~, *needed*  
6 *to achieve a permanent family*, shall include child-centered  
7 *specialized* permanency services, as defined in ~~Section 11400~~, and  
8 ~~supportive transition services to nonminor dependents, as described~~  
9 ~~in subdivision (v) of Section 11400~~. *Permanent placement services*  
10 *for nonminor dependents may include child-centered specialized*  
11 *permanency services and shall include supportive transition*  
12 *services*.

13 (2) For purposes of this section, “another planned permanent  
14 living arrangement” means a permanent plan ordered by the court  
15 for a child 16 years of age or older or a nonminor dependent, when  
16 there is a compelling reason or reasons to determine that it is not  
17 in the best interest of the child or nonminor dependent to return  
18 home, be placed for adoption, be placed for tribal customary  
19 adoption in the case of an Indian child, or be placed with a fit and  
20 willing relative. Placement in a group home, or, on and after  
21 January 1, 2017, a short-term residential treatment facility, shall  
22 not be the identified permanent plan for any child or nonminor  
23 dependent.

24 (j) As used in this chapter, family preservation services include  
25 those services specified in Section 16500.5 to avoid or limit  
26 out-of-home placement of children, and may include those services  
27 specified in that section to place children in the least restrictive  
28 environment possible.

29 (k) (1) (A) In any county electing to implement this  
30 subdivision, all county welfare department employees who have  
31 frequent and routine contact with children shall, by February 1,  
32 1997, and all welfare department employees who are expected to  
33 have frequent and routine contact with children and who are hired  
34 on or after January 1, 1996, and all such employees whose duties  
35 change after January 1, 1996, to include frequent and routine  
36 contact with children, shall, if the employees provide services to  
37 children who are alleged victims of abuse, neglect, or exploitation,  
38 sign a declaration under penalty of perjury regarding any prior  
39 criminal conviction, and shall provide a set of fingerprints to the  
40 county welfare director.

1 (B) The county welfare director shall secure from the  
2 Department of Justice a criminal record to determine whether the  
3 employee has ever been convicted of a crime other than a minor  
4 traffic violation. The Department of Justice shall deliver the  
5 criminal record to the county welfare director.

6 (C) If it is found that the employee has been convicted of a  
7 crime, other than a minor traffic violation, the county welfare  
8 director shall determine whether there is substantial and convincing  
9 evidence to support a reasonable belief that the employee is of  
10 good character so as to justify frequent and routine contact with  
11 children.

12 (D) No exemption shall be granted pursuant to subparagraph  
13 (C) if the person has been convicted of a sex offense against a  
14 minor, or has been convicted of an offense specified in Section  
15 220, 243.4, 264.1, 273d, 288, or 289 of the Penal Code, or in  
16 paragraph (1) of Section 273a of, or subdivision (a) or (b) of  
17 Section 368 of, the Penal Code, or has been convicted of an offense  
18 specified in subdivision (c) of Section 667.5 of the Penal Code.  
19 The county welfare director shall suspend such a person from any  
20 duties involving frequent and routine contact with children.

21 (E) Notwithstanding subparagraph (D), the county welfare  
22 director may grant an exemption if the employee or prospective  
23 employee, who was convicted of a crime against an individual  
24 specified in paragraph (1) or (7) of subdivision (c) of Section 667.5  
25 of the Penal Code, has been rehabilitated as provided in Section  
26 4852.03 of the Penal Code and has maintained the conduct required  
27 in Section 4852.05 of the Penal Code for at least 10 years and has  
28 the recommendation of the district attorney representing the  
29 employee's or prospective employee's county of residence, or if  
30 the employee or prospective employee has received a certificate  
31 of rehabilitation pursuant to Chapter 3.5 (commencing with Section  
32 4852.01) of Title 6 of Part 3 of the Penal Code. In that case, the  
33 county welfare director may give the employee or prospective  
34 employee an opportunity to explain the conviction and shall  
35 consider that explanation in the evaluation of the criminal  
36 conviction record.

37 (F) If no criminal record information has been recorded, the  
38 county welfare director shall cause a statement of that fact to be  
39 included in that person's personnel file.

(2) For purposes of this subdivision, a conviction means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that the county welfare director is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, notwithstanding a subsequent order pursuant to Sections 1203.4 and 1203.4a of the Penal Code permitting the person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment. For purposes of this subdivision, the record of a conviction, or a copy thereof certified by the clerk of the court or by a judge of the court in which the conviction occurred, shall be conclusive evidence of the conviction.

SEC. 16. Section 16501.1 of the Welfare and Institutions Code is amended to read:

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

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

(3) The agency shall consider the recommendations of the child and family team, as defined in paragraph (4) of subdivision (a) of Section 16501, if any are available. The agency shall document the rationale for any inconsistencies between the case plan and the child and family team recommendations.

(b) (1) A case plan shall be based upon the principles of this section and the input from the child and family team.

(2) The case plan shall document that a preplacement assessment of the service needs of the child and family, and preplacement preventive services, have been provided, and that reasonable efforts to prevent out-of-home placement have been made. Preplacement services may include intensive mental health services in the home

1 or a community setting and the reasonable efforts made to prevent  
2 out-of-home placement.

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

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

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

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

24 (c) If out-of-home placement is used to attain case plan goals,  
25 the case plan shall consider the recommendations of the child and  
26 family team.

27 (d) (1) The case plan shall include a description of the type of  
28 home or institution in which the child is to be placed, and the  
29 reasons for that placement decision. The decision regarding choice  
30 of placement shall be based upon selection of a safe setting that is  
31 the least restrictive family setting that promotes normal childhood  
32 experiences and the most appropriate setting that meets the child's  
33 individual needs and is available, in proximity to the parent's home,  
34 in proximity to the child's school, and consistent with the selection  
35 of the environment best suited to meet the child's special needs  
36 and best interests. The selection shall consider, in order of priority,  
37 placement with relatives, nonrelated extended family members,  
38 and tribal members; foster family homes, resource families, and  
39 nontreatment certified homes of foster family agencies; followed  
40 by treatment and intensive treatment certified homes of foster

1 family agencies; or multidimensional treatment foster care homes  
2 or therapeutic foster care homes; group care placements in the  
3 order of short-term residential treatment centers, group homes,  
4 community treatment facilities, and out-of-state residential  
5 treatment pursuant to Part 5 (commencing with Section 7900) of  
6 Division 12 of the Family Code.

7 (2) If a short-term intensive treatment center placement is  
8 selected for a child, the case plan shall indicate the needs of the  
9 child that necessitate this placement, the plan for transitioning the  
10 child to a less restrictive environment, and the projected timeline  
11 by which the child will be transitioned to a less restrictive  
12 environment. This section of the case plan shall be reviewed and  
13 updated at least semiannually.

14 (A) The case plan for placements in a group home, or  
15 commencing January 1, 2017, in a short-term residential treatment  
16 center, shall indicate that the county has taken into consideration  
17 Section 16010.8.

18 (B) After January 1, 2017, a child and family team meeting as  
19 defined in Section 16501 shall be convened by the county placing  
20 agency for the purpose of identifying the supports and services  
21 needed to achieve permanency and enable the child or youth to be  
22 placed in the least restrictive family setting that promotes normal  
23 childhood experiences.

24 (3) On or after January 1, 2012, for a nonminor dependent, as  
25 defined in subdivision (v) of Section 11400, who is receiving  
26 AFDC-FC benefits up to 21 years of age pursuant to Section 11403,  
27 in addition to the above requirements, the selection of the  
28 placement, including a supervised independent living placement,  
29 as described in subdivision (w) of Section 11400, shall also be  
30 based upon the developmental needs of young adults by providing  
31 opportunities to have incremental responsibilities that prepare a  
32 nonminor dependent to transition to successful adulthood. If  
33 admission to, or continuation in, a group home or short-term  
34 residential treatment center placement is being considered for a  
35 nonminor dependent, the group home or short-term residential  
36 treatment center placement approval decision shall include a  
37 youth-driven, team-based case planning process, as defined by the  
38 department, in consultation with stakeholders. The case plan shall  
39 consider the full range of placement options, and shall specify why  
40 admission to, or continuation in, a group home placement is the

1 best alternative available at the time to meet the special needs or  
2 well-being of the nonminor dependent, and how the placement  
3 will contribute to the nonminor dependent's transition to successful  
4 adulthood. The case plan shall specify the treatment strategies that  
5 will be used to prepare the nonminor dependent for discharge to  
6 a less restrictive family setting that promotes normal childhood  
7 experiences, including a target date for discharge from the group  
8 home placement. The placement shall be reviewed and updated  
9 on a regular, periodic basis to ensure that continuation in the group  
10 home placement remains in the best interests of the nonminor  
11 dependent and that progress is being made in achieving case plan  
12 goals leading to successful adulthood. The group home placement  
13 planning process shall begin as soon as it becomes clear to the  
14 county welfare department or probation office that a foster child  
15 in group home placement is likely to remain in group home  
16 placement on his or her 18th birthday, in order to expedite the  
17 transition to a less restrictive family setting that promotes normal  
18 childhood experiences, if he or she becomes a nonminor dependent.  
19 The case planning process shall include informing the youth of all  
20 of his or her options, including, but not limited to, admission to  
21 or continuation in a group home placement and the provision of  
22 child-centered specialized permanency services, as defined in  
23 Section 11400. Consideration for continuation of existing group  
24 home placement for a nonminor dependent under 19 years of age  
25 may include the need to stay in the same placement in order to  
26 complete high school. After a nonminor dependent either completes  
27 high school or attains his or her 19th birthday, whichever is earlier,  
28 continuation in or admission to a group home placement is  
29 prohibited unless the nonminor dependent satisfies the conditions  
30 of paragraph (5) of subdivision (b) of Section 11403, and group  
31 home placement functions as a short-term transition to the  
32 appropriate system of care. Treatment services provided by the  
33 group home placement to the nonminor dependent to alleviate or  
34 ameliorate the medical condition, as described in paragraph (5) of  
35 subdivision (b) of Section 11403, shall not constitute the sole basis  
36 to disqualify a nonminor dependent from the group home  
37 placement.

38 (4) In addition to the requirements of paragraphs (1) to (3),  
39 inclusive, and taking into account other statutory considerations  
40 regarding placement, the selection of the most appropriate home

1 that will meet the child's special needs and best interests shall also  
2 promote educational stability by taking into consideration  
3 proximity to the child's school of origin, and school attendance  
4 area, the number of school transfers the child has previously  
5 experienced, and the child's school matriculation schedule, in  
6 addition to other indicators of educational stability that the  
7 Legislature hereby encourages the State Department of Social  
8 Services and the State Department of Education to develop.

9 (e) A written case plan shall be completed within a maximum  
10 of 60 days of the initial removal of the child or of the in-person  
11 response required under subdivision (f) of Section 16501 if the  
12 child has not been removed from his or her home, or by the date  
13 of the dispositional hearing pursuant to Section 358, whichever  
14 occurs first. The case plan shall be updated, as the service needs  
15 of the child and family dictate. At a minimum, the case plan shall  
16 be updated in conjunction with each status review hearing  
17 conducted pursuant to Sections 364, 366, 366.3, and 366.31, and  
18 the hearing conducted pursuant to Section 366.26, but no less  
19 frequently than once every six months. Each updated case plan  
20 shall include a description of the services that have been provided  
21 to the child under the plan and an evaluation of the appropriateness  
22 and effectiveness of those services.

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

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

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

39 (g) The case plan shall be developed considering the  
40 recommendations of the child and family team, as follows:

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

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

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

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

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

38 (B) Information regarding any court-ordered visitation between  
39 the child and the natural parents or legal guardians, and the terms  
40 and conditions needed to facilitate the visits while protecting the

1 safety of the child, shall be provided to the child's out-of-home  
2 caregiver as soon as possible after the court order is made.

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

18 (A) The death of an immediate relative.

19 (B) The birth of a sibling.

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

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

33 (8) A case plan shall ensure the educational stability of the child  
34 while in foster care and shall include both of the following:

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

38 (B) An assurance that the placement agency has coordinated  
39 with the person holding the right to make educational decisions  
40 for the child and appropriate local educational agencies to ensure

1 that the child remains in the school in which the child is enrolled  
2 at the time of placement or, if remaining in that school is not in  
3 the best interests of the child, assurances by the placement agency  
4 and the local educational agency to provide immediate and  
5 appropriate enrollment in a new school and to provide all of the  
6 child's educational records to the new school.

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

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

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

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

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

(B) Parents and legal guardians shall be advised that, pursuant to Section 1228.1 of the Evidence Code, neither their signature on the child welfare services case plan nor their acceptance of any services prescribed in the child welfare services case plan shall constitute an admission of guilt or be used as evidence against the parent or legal guardian in a court of law. However, they shall also be advised that the parent's or guardian's failure to cooperate, except for good cause, in the provision of services specified in the child welfare services case plan may be used in any hearing held pursuant to Section 366.21, 366.22, or 366.25 of this code as evidence.

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

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

(15) (A) If the case plan has as its goal for the child a permanent plan of adoption or legal guardianship, it shall include a statement of the child's wishes regarding their permanent placement plan

1 and an assessment of those stated wishes. The agency shall also  
 2 include documentation of the steps the agency is taking to find an  
 3 adoptive family or other permanent living arrangements for the  
 4 child, to place the child with an adoptive family, an appropriate  
 5 and willing relative, or a legal guardian, and to finalize the adoption  
 6 or legal guardianship. At a minimum, the documentation shall  
 7 include child-specific recruitment efforts, such as the use of state,  
 8 regional, and national adoption exchanges, including electronic  
 9 exchange systems, when the child has been freed for adoption.  
 10 The documentation shall also reflect the provision of child-centered  
 11 specialized permanency services, as defined in Section 11400.  
 12 Regardless of whether the child has been freed for adoption,  
 13 documentation shall include a description of any barriers to  
 14 achieving legal permanence and the steps the agency will take to  
 15 address those barriers, including the provision of child-centered  
 16 specialized permanency services, as defined in Section 11400. If  
 17 the plan is for kinship guardianship, the case plan shall document  
 18 how the child meets the kinship guardianship eligibility  
 19 requirements.

20 (B) When the child is 16 years of age or older and is in another  
 21 planned permanent living arrangement, the case plan shall identify  
 22 the intensive and ongoing efforts, including child-centered  
 23 specialized permanency services, as defined in Section 11400, to  
 24 return the child to the home of the parent, place the child for  
 25 adoption, place the child for tribal customary adoption in the case  
 26 of an Indian child, establish a legal guardianship, or place the child  
 27 nonminor dependent with a fit and willing relative, as appropriate.  
 28 Efforts shall include the use of technology, including social media,  
 29 to find biological family members of the child.

30 (16) (A) (i) For a child who is 14 or 15 years of age, the case  
 31 plan shall include a written description of the programs and services  
 32 that will help the child, consistent with the child's best interests,  
 33 to prepare for the transition from foster care to successful  
 34 adulthood. The description may be included in the document  
 35 described in subparagraph (A) of paragraph (18).

36 (ii) When appropriate, for a child who is 16 years of age or older  
 37 and, commencing January 1, 2012, for a nonminor dependent, the  
 38 case plan shall include the transitional independent living plan  
 39 (TILP), a written description of the programs and services that  
 40 will help the child, consistent with the child's best interests, to

1 prepare for the transition from foster care to successful adulthood,  
2 and, in addition, whether the youth has an in-progress application  
3 pending for Title XVI Supplemental Security Income benefits or  
4 for Special Immigrant Juvenile Status or other applicable  
5 application for legal residency and an active dependency case is  
6 required for that application. When appropriate, for a nonminor  
7 dependent, the transitional independent living case plan, as  
8 described in subdivision (v) of Section 11400, shall include the  
9 TILP, a written description of the programs and services that will  
10 help the nonminor dependent, consistent with his or her best  
11 interests, to prepare for transition from foster care and assist the  
12 youth in meeting the eligibility criteria set forth in paragraphs (1)  
13 to (5), inclusive, of subdivision (b) of Section 11403. If applicable,  
14 the case plan shall describe the individualized supervision provided  
15 in the supervised independent living placement as defined in  
16 subdivision (w) of Section 11400. The case plan shall be developed  
17 with the child or nonminor dependent and individuals identified  
18 as important to the child or nonminor dependent, and shall include  
19 steps the agency is taking to ensure that the child or nonminor  
20 dependent achieves permanence, including maintaining or  
21 obtaining permanent connections to caring and committed adults.

22 (B) During the 90-day period prior to the participant attaining  
23 18 years of age or older as the state may elect under Section  
24 475(8)(B)(iii) of the federal Social Security Act (42 U.S.C. Sec.  
25 675(8)(B)(iii)), whether during that period foster care maintenance  
26 payments are being made on the child's behalf or the child is  
27 receiving benefits or services under Section 477 of the federal  
28 Social Security Act (42 U.S.C. Sec. 677), a caseworker or other  
29 appropriate agency staff or probation officer and other  
30 representatives of the participant, as appropriate, shall provide the  
31 youth or nonminor dependent with assistance and support in  
32 developing the written 90-day transition plan, that is personalized  
33 at the direction of the child, information as detailed as the  
34 participant elects that shall include, but not be limited to, options  
35 regarding housing, health insurance, education, local opportunities  
36 for mentors and continuing support services, and workforce  
37 supports and employment services, a power of attorney for health  
38 care, and information regarding the advance health care directive  
39 form.

1 (C) For youth 14 years of age or older, the case plan shall  
2 include documentation that a consumer credit report was requested  
3 annually from each of the three major credit reporting agencies at  
4 no charge to the youth and that any results were provided to the  
5 youth. For nonminor dependents, the case plan shall include  
6 documentation that the county assisted the nonminor dependent  
7 in obtaining his or her reports. The case plan shall include  
8 documentation of barriers, if any, to obtaining the credit reports.  
9 If the consumer credit report reveals any accounts, the case plan  
10 shall detail how the county ensured the youth received assistance  
11 with interpreting the credit report and resolving any inaccuracies,  
12 including any referrals made for the assistance.

13 (17) For youth 14 years of age or older and nonminor  
14 dependents, the case plan shall be developed in consultation with  
15 the youth. At the youth's option, the consultation may include up  
16 to two members of the case planning team who are chosen by the  
17 youth and who are not foster parents of, or caseworkers for, the  
18 youth. The agency, at any time, may reject an individual selected  
19 by the youth to be a member of the case planning team if the  
20 agency has good cause to believe that the individual would not act  
21 in the youth's best interest. One individual selected by the youth  
22 to be a member of the case planning team may be designated to  
23 be the youth's adviser and advocate with respect to the application  
24 of the reasonable and prudent parent standard to the youth, as  
25 necessary.

26 (18) For youth in foster care 14 years of age and older and  
27 nonminor dependents, the case plan shall include both of the  
28 following:

29 (A) A document that describes the youth's rights with respect  
30 to education, health, visitation, and court participation, the right  
31 to be annually provided with copies of his or her credit reports at  
32 no cost while in foster care pursuant to Section 10618.6, and the  
33 right to stay safe and avoid exploitation.

34 (B) A signed acknowledgment by the youth that he or she has  
35 been provided a copy of the document and that the rights described  
36 in the document have been explained to the youth in an  
37 age-appropriate manner.

38 (19) The case plan for a child or nonminor dependent who is,  
39 or who is at risk of becoming, the victim of commercial sexual

1 exploitation, shall document the services provided to address that  
2 issue.

3 (h) If the court finds, after considering the case plan, that  
4 unsupervised sibling visitation is appropriate and has been  
5 consented to, the court shall order that the child or the child's  
6 siblings, the child's current caregiver, and the child's prospective  
7 adoptive parents, if applicable, be provided with information  
8 necessary to accomplish this visitation. This section does not  
9 require or prohibit the social worker's facilitation, transportation,  
10 or supervision of visits between the child and his or her siblings.

11 (i) The case plan documentation on sibling placements required  
12 under this section shall not require modification of existing case  
13 plan forms until the Child Welfare Service/Case Management  
14 System (CWS/CMS) is implemented on a statewide basis.

15 (j) When a child is 10 years of age or older and has been in  
16 out-of-home placement for six months or longer, the case plan  
17 shall include an identification of individuals, other than the child's  
18 siblings, who are important to the child and actions necessary to  
19 maintain the child's relationship with those individuals, provided  
20 that those relationships are in the best interest of the child. The  
21 social worker or probation officer shall ask every child who is 10  
22 years of age or older and who has been in out-of-home placement  
23 for six months or longer to identify individuals other than the  
24 child's siblings who are important to the child, and may ask any  
25 other child to provide that information, or may seek that  
26 information from the child and family team, as appropriate. The  
27 social worker or probation officer shall make efforts to identify  
28 other individuals who are important to the child, consistent with  
29 the child's best interests.

30 (k) The child's caregiver shall be provided a copy of a plan  
31 outlining the child's needs and services. The nonminor dependent's  
32 caregiver shall be provided with a copy of the nonminor's TILP.

33 (l) Each county shall ensure that the total number of visits made  
34 by caseworkers on a monthly basis to children in foster care during  
35 a federal fiscal year is not less than 95 percent of the total number  
36 of those visits that would occur if each child were visited once  
37 every month while in care and that the majority of the visits occur  
38 in the residence of the child. The county child welfare and  
39 probation departments shall comply with data reporting  
40 requirements that the department deems necessary to comply with

1 the federal Child and Family Services Improvement Act of 2006  
2 (Public Law 109-288) and the federal Child and Family Services  
3 Improvement and Innovation Act of 2011 (Public Law 112-34).

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

8 SEC. 17. To the extent that this act has an overall effect of  
9 increasing the costs already borne by a local agency for programs  
10 or levels of service mandated by the 2011 Realignment Legislation  
11 within the meaning of Section 36 of Article XIII of the California  
12 Constitution, it shall apply to local agencies only to the extent that  
13 the state provides annual funding for the cost increase. Any new  
14 program or higher level of service provided by a local agency  
15 pursuant to this act above the level for which funding has been  
16 provided shall not require a subvention of funds by the state nor  
17 otherwise be subject to Section 6 of Article XIII B of the California  
18 Constitution.