

AMENDED IN ASSEMBLY MARCH 28, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 1879

Introduced by Assembly Member McCarty

February 10, 2016

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),

1 (11), (12), (13), (14), (15), or (16) of subdivision (b) unless the
2 court finds, by clear and convincing evidence, that reunification
3 is in the best interest of the child.

4 ~~In~~

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

16 ~~The~~

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

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

33 (e) (1) If the parent or guardian is incarcerated, institutionalized,
34 or detained by the United States Department of Homeland Security,
35 or has been deported to his or her country of origin, the court shall
36 order reasonable services unless the court determines, by clear and
37 convincing evidence, those services would be detrimental to the
38 child. In determining detriment, the court shall consider the age
39 of the child, the degree of parent-child bonding, the length of the
40 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.

1 (3) If the child was under three years of age on the date of the
2 initial removal, or is a member of a sibling group described in
3 subparagraph (C) of paragraph (1) of subdivision (a) of Section
4 361.5, and the court finds by clear and convincing evidence that
5 the parent failed to participate regularly and make substantive
6 progress in a court-ordered treatment plan, the court may schedule
7 a hearing pursuant to Section 366.26 within 120 days. If, however,
8 the court finds there is a substantial probability that the child, who
9 was under three years of age on the date of initial removal or is a
10 member of a sibling group described in subparagraph (C) of
11 paragraph (1) of subdivision (a) of Section 361.5, may be returned
12 to his or her parent or legal guardian within six months or that
13 reasonable services have not been provided, the court shall continue
14 the case to the 12-month permanency hearing.

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

37 (5) If the child was removed initially under subdivision (g) of
38 Section 300 and the court finds by clear and convincing evidence
39 that the whereabouts of the parent are still unknown, or the parent
40 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

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

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

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

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

3 (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.

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

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

13 727.3. The purpose of this section is to provide a means to
14 monitor the safety and well-being of every minor in foster care
15 who has been declared a ward of the juvenile court pursuant to
16 Section 601 or 602 and to ensure that everything reasonably
17 possible is done to facilitate the safe and early return of the minor
18 to his or her own home or to establish an alternative permanent
19 plan for the minor.

20 (a) (1) For every minor declared a ward and ordered to be
21 placed in foster care, a permanency planning hearing shall be
22 conducted within 12 months of the date the minor entered foster
23 care, as defined in paragraph (4) of subdivision (d) of Section
24 727.4. Subsequent permanency planning hearings shall be
25 conducted periodically, but no less frequently than once every 12
26 months thereafter during the period of placement. It shall be the
27 duty of the probation officer to prepare a written social study report
28 including an updated case plan and a recommendation for a
29 permanent plan, pursuant to subdivision (c) of Section 706.5, and
30 submit the report to the court prior to each permanency planning
31 hearing, pursuant to subdivision (b) of Section 727.4.

32 (2) Prior to any permanency planning hearing involving a minor
33 in the physical custody of a community care facility or foster family
34 agency, the facility or agency may file with the court a report
35 containing its recommendations, in addition to the probation
36 officer's social study. Prior to any permanency planning hearing
37 involving the physical custody of a foster parent, relative caregiver,
38 preadoptive parent, or legal guardian, that person may present to
39 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.

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

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

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

17 11400. For purposes of this article, the following definitions
 18 shall apply:

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

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

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

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

39 (e) "Small family home" means any residential facility, in the
 40 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.

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

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

18 16501.1. (a) (1) The Legislature finds and declares that the
19 foundation and central unifying tool in child welfare services is
20 the case plan.

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

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

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

35 (2) The case plan shall document that a preplacement assessment
36 of the service needs of the child and family, and preplacement
37 preventive services, have been provided, and that reasonable efforts
38 to prevent out-of-home placement have been made. Preplacement
39 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.

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

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

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

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

38 (15) (A) If the case plan has as its goal for the child a permanent
39 plan of adoption or legal guardianship, it shall include a statement
40 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.

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