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AMENDED IN ASSEMBLY MARCH 18, 2016
CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 2597

Introduced by Assembly Member Cooley

February 19, 2016

An act to amend Sections ~~366.26~~ 366.26, 11253.2, and 16519.5 of the Welfare and Institutions Code, relating to foster care.

LEGISLATIVE COUNSEL'S DIGEST

AB 2597, as amended, Cooley. Resource family approval.

Existing law provides for the early implementation, by counties and foster family agencies, of the resource family approval process, which is a unified, family friendly, and child-centered approval process that replaces the multiple processes for licensing foster family homes, approving relatives and nonrelative extended family members as foster care providers, and approving adoptive families. Existing law requires the State Department of Social Services to implement the resource family approval process in all counties and with all foster family agencies by January 1, 2017. Existing law requires a resource family to demonstrate, among other things, the financial ability within the household to ensure the stability and financial security of the ~~family~~. *family, and requires a resource family applicant to complete a psychosocial assessment.* Existing law also provides, in specified circumstances, that AFDC-FC funding shall not be available until approval of the resource family has been completed.

This bill would provide that a family who will rely on ~~AFDC-FC~~ *AFDC-FC, Kin-Gap, or Adoption Assistance Program* benefits to meet

additional household expenses incurred due to the placement of a child or children shall not, for that reason, be denied approval as a resource family. *The bill would authorize a family member or non-related extended family member to be approved as a resource family only for the placement of a specific child or children in certain circumstances.* The bill would ~~also, among other things,~~ provide that a family approved only for the placement of a specific child or children *pursuant to that provision or on an emergency basis* be reassessed prior to the placement of any other or additional children. *The bill would require the psychosocial assessment for an applicant who has a specific child or children placed with him or her on an emergency basis, or who is applying to become a resource family for a specific child or children, to consider the relationship between the applicant and the child or children.* The bill would also provide, in specified circumstances, that if the resource family approval process is not completed within 90 days after placement due to circumstances outside the control of the resource family, then the beginning date of aid for AFDC-FC shall be no later than 90 days after placement. The bill would also require that a determination to deny approval of a resource family be reviewed by county staff at the supervisory or administrative level, for compliance with the approval standards, as specified. By increasing duties on county staff, the 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.~~

Existing law requires each county to provide cash assistance and other social services to needy families through the California Work Opportunity and Responsibility to Kids (CalWORKs) program using federal Temporary Assistance to Needy Families (TANF) block grant program, state, and county funds. Existing law requires that an application for CalWORKs filed on behalf of specified children in the juvenile dependency system be processed pursuant to an expedited process. Existing law makes that provision inapplicable if the person who applies for aid on behalf of that child is also an applicant for or a recipient of CalWORKs benefits.

This bill would delete the latter provision and instead provide that a person who applies for aid on behalf of that child and who is an applicant for or recipient of CalWORKs benefits is responsible for

applying for CalWORKs benefits, and complying with continuing eligibility requirements, for himself or herself. The bill would also require that those specified children in the juvenile dependency system receive the applicable regional CalWORKs grant for a recipient in an assistance unit of one, and provide that his or her application date for CalWORKs benefits is the date he or she was placed with his or her relative. By increasing the number of expedited applications the county is required to process, 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 with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

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

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

1 SECTION 1. Section 366.26 of the Welfare and Institutions
2 Code is amended to read:
3 366.26. (a) This section applies to children who are adjudged
4 dependent children of the juvenile court pursuant to subdivision
5 (d) of Section 360. The procedures specified herein are the
6 exclusive procedures for conducting these hearings; Part 2
7 (commencing with Section 3020) of Division 8 of the Family Code
8 is not applicable to these proceedings. Section 8616.5 of the Family
9 Code is applicable and available to all dependent children meeting
10 the requirements of that section, if the postadoption contact
11 agreement has been entered into voluntarily. For children who are
12 adjudged dependent children of the juvenile court pursuant to
13 subdivision (d) of Section 360, this section and Sections 8604,
14 8605, 8606, and 8700 of the Family Code and Chapter 5
15 (commencing with Section 7660) of Part 3 of Division 12 of the
16 Family Code specify the exclusive procedures for permanently

1 terminating parental rights with regard to, or establishing legal
2 guardianship of, the child while the child is a dependent child of
3 the juvenile court.

4 (b) At the hearing, which shall be held in juvenile court for all
5 children who are dependents of the juvenile court, the court, in
6 order to provide stable, permanent homes for these children, shall
7 review the report as specified in Section 361.5, 366.21, 366.22, or
8 366.25, shall indicate that the court has read and considered it,
9 shall receive other evidence that the parties may present, and then
10 shall make findings and orders in the following order of preference:

11 (1) Terminate the rights of the parent or parents and order that
12 the child be placed for adoption and, upon the filing of a petition
13 for adoption in the juvenile court, order that a hearing be set. The
14 court shall proceed with the adoption after the appellate rights of
15 the natural parents have been exhausted.

16 (2) Order, without termination of parental rights, the plan of
17 tribal customary adoption, as described in Section 366.24, through
18 tribal custom, traditions, or law of the Indian child's tribe, and
19 upon the court affording the tribal customary adoption order full
20 faith and credit at the continued selection and implementation
21 hearing, order that a hearing be set pursuant to paragraph (2) of
22 subdivision (e).

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

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

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

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

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

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

1 (c) (1) If the court determines, based on the assessment provided
2 as ordered under subdivision (i) of Section 366.21, subdivision (b)
3 of Section 366.22, or subdivision (b) of Section 366.25, and any
4 other relevant evidence, by a clear and convincing standard, that
5 it is likely the child will be adopted, the court shall terminate
6 parental rights and order the child placed for adoption. The fact
7 that the child is not yet placed in a preadoptive home nor with a
8 relative or foster family who is prepared to adopt the child, shall
9 not constitute a basis for the court to conclude that it is not likely
10 the child will be adopted. A finding under subdivision (b) or
11 paragraph (1) of subdivision (e) of Section 361.5 that reunification
12 services shall not be offered, under subdivision (e) of Section
13 366.21 that the whereabouts of a parent have been unknown for
14 six months or that the parent has failed to visit or contact the child
15 for six months, or that the parent has been convicted of a felony
16 indicating parental unfitness, or, under Section 366.21 or 366.22,
17 that the court has continued to remove the child from the custody
18 of the parent or guardian and has terminated reunification services,
19 shall constitute a sufficient basis for termination of parental rights.
20 Under these circumstances, the court shall terminate parental rights
21 unless either of the following applies:

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

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

35 (i) The parents have maintained regular visitation and contact
36 with the child and the child would benefit from continuing the
37 relationship.

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

- 1 (iii) The child is placed in a residential treatment facility,
2 adoption is unlikely or undesirable, and continuation of parental
3 rights will not prevent finding the child a permanent family
4 placement if the parents cannot resume custody when residential
5 care is no longer needed.
- 6 (iv) The child is living with a foster parent or Indian custodian
7 who is unable or unwilling to adopt the child because of
8 exceptional circumstances, that do not include an unwillingness
9 to accept legal or financial responsibility for the child, but who is
10 willing and capable of providing the child with a stable and
11 permanent environment and the removal of the child from the
12 physical custody of his or her foster parent or Indian custodian
13 would be detrimental to the emotional well-being of the child. This
14 clause does not apply to any child who is either (I) under six years
15 of age or (II) a member of a sibling group where at least one child
16 is under six years of age and the siblings are, or should be,
17 permanently placed together.
- 18 (v) There would be substantial interference with a child’s sibling
19 relationship, taking into consideration the nature and extent of the
20 relationship, including, but not limited to, whether the child was
21 raised with a sibling in the same home, whether the child shared
22 significant common experiences or has existing close and strong
23 bonds with a sibling, and whether ongoing contact is in the child’s
24 best interest, including the child’s long-term emotional interest,
25 as compared to the benefit of legal permanence through adoption.
- 26 (vi) The child is an Indian child and there is a compelling reason
27 for determining that termination of parental rights would not be
28 in the best interest of the child, including, but not limited to:
 - 29 (I) Termination of parental rights would substantially interfere
30 with the child’s connection to his or her tribal community or the
31 child’s tribal membership rights.
 - 32 (II) The child’s tribe has identified guardianship, foster care
33 with a fit and willing relative, tribal customary adoption, or another
34 planned permanent living arrangement for the child.
 - 35 (III) The child is a nonminor dependent, and the nonminor and
36 the nonminor’s tribe have identified tribal customary adoption for
37 the nonminor.
- 38 (C) For purposes of subparagraph (B), in the case of tribal
39 customary adoptions, Section 366.24 shall apply.

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

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

5 (A) At each hearing at which the court was required to consider
6 reasonable efforts or services, the court has found that reasonable
7 efforts were not made or that reasonable services were not offered
8 or provided.

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

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

12 (ii) The court does not make a determination at the hearing
13 terminating parental rights, supported by evidence beyond a
14 reasonable doubt, including testimony of one or more “qualified
15 expert witnesses” as defined in Section 224.6, that the continued
16 custody of the child by the parent is likely to result in serious
17 emotional or physical damage to the child.

18 (iii) The court has ordered tribal customary adoption pursuant
19 to Section 366.24.

20 (3) If the court finds that termination of parental rights would
21 not be detrimental to the child pursuant to paragraph (1) and that
22 the child has a probability for adoption but is difficult to place for
23 adoption and there is no identified or available prospective adoptive
24 parent, the court may identify adoption as the permanent placement
25 goal and without terminating parental rights, order that efforts be
26 made to locate an appropriate adoptive family for the child, within
27 the state or out of the state, within a period not to exceed 180 days.
28 During this 180-day period, the public agency responsible for
29 seeking adoptive parents for each child shall, to the extent possible,
30 ask each child who is 10 years of age or older, to identify any
31 individuals, other than the child’s siblings, who are important to
32 the child, in order to identify potential adoptive parents. The public
33 agency may ask any other child to provide that information, as
34 appropriate. During the 180-day period, the public agency shall,
35 to the extent possible, contact other private and public adoption
36 agencies regarding the availability of the child for adoption. During
37 the 180-day period, the public agency shall conduct the search for
38 adoptive parents in the same manner as prescribed for children in
39 Sections 8708 and 8709 of the Family Code. At the expiration of
40 this period, another hearing shall be held and the court shall

1 proceed pursuant to paragraph (1), (2), (3), (5), or (6) of subdivision
 2 (b). For purposes of this section, a child may only be found to be
 3 difficult to place for adoption if there is no identified or available
 4 prospective adoptive parent for the child because of the child's
 5 membership in a sibling group, or the presence of a diagnosed
 6 medical, physical, or mental handicap, or the child is seven years
 7 of age or more.

8 (4) (A) If the court finds that adoption of the child or
 9 termination of parental rights is not in the best interest of the child,
 10 because one of the conditions in clause (i), (ii), (iii), (iv), (v), or
 11 (vi) of subparagraph (B) of paragraph (1) or in paragraph (2)
 12 applies, the court shall order that the present caretakers or other
 13 appropriate persons shall become legal guardians of the child, or,
 14 in the case of an Indian child, consider a tribal customary adoption
 15 pursuant to Section 366.24. Legal guardianship shall be considered
 16 before continuing the child in foster care under any other permanent
 17 plan, if it is in the best interests of the child and if a suitable
 18 guardian can be found. If the child continues in foster care, the
 19 court shall make factual findings identifying any barriers to
 20 achieving adoption, tribal customary adoption in the case of an
 21 Indian child, legal guardianship, or placement with a fit and willing
 22 relative as of the date of the hearing. A child who is 10 years of
 23 age or older, shall be asked to identify any individuals, other than
 24 the child's siblings, who are important to the child, in order to
 25 identify potential guardians or, in the case of an Indian child,
 26 prospective tribal customary adoptive parents. The agency may
 27 ask any other child to provide that information, as appropriate.

28 (B) (i) If the child is living with an approved relative or a
 29 relative approved as a resource family who is willing and capable
 30 of providing a stable and permanent environment, but not willing
 31 to become a legal guardian or adoptive parent as of the hearing
 32 date, the court shall order a permanent plan of placement with a
 33 fit and willing relative, and the child shall not be removed from
 34 the home if the court finds the removal would be seriously
 35 detrimental to the emotional well-being of the child because the
 36 child has substantial psychological ties to the relative caretaker.

37 (ii) If the child is living with a nonrelative caregiver who is
 38 willing and capable of providing a stable and permanent
 39 environment, but not willing to become a legal guardian as of the
 40 hearing date, the court shall order that the child remain in foster

1 care with a permanent plan of return home, adoption, legal
2 guardianship, or placement with a fit and willing relative, as
3 appropriate. If the child is 16 years of age or older, or a nonminor
4 dependent, and no other permanent plan is appropriate at the time
5 of the hearing, the court may order another planned permanent
6 living arrangement, as described in paragraph (2) of subdivision
7 (i) of Section 16501. Regardless of the age of the child, the child
8 shall not be removed from the home if the court finds the removal
9 would be seriously detrimental to the emotional well-being of the
10 child because the child has substantial psychological ties to the
11 caregiver.

12 (iii) If the child is living in a group home or, on or after January
13 1, 2017, a short-term residential treatment center, the court shall
14 order that the child remain in foster care with a permanent plan of
15 return home, adoption, tribal customary adoption in the case of an
16 Indian child, legal guardianship, or placement with a fit and willing
17 relative, as appropriate. If the child is 16 years of age or older, or
18 a nonminor dependent, and no other permanent plan is appropriate
19 at the time of the hearing, the court may order another planned
20 permanent living arrangement, as described in paragraph (2) of
21 subdivision (i) of Section 16501.

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

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

37 The licensed foster family agency shall place the child in a
38 suitable licensed or exclusive-use home that has been certified by
39 the agency as meeting licensing standards. The licensed foster
40 family agency shall be responsible for supporting the child and

1 providing appropriate services to the child, including those services
2 ordered by the court. Responsibility for the support of the child
3 shall not, in and of itself, create liability on the part of the foster
4 family agency to third persons injured by the child. Those children
5 whose care, custody, and control are transferred to a foster family
6 agency shall not be eligible for foster care maintenance payments
7 or child welfare services, except for emergency response services
8 pursuant to Section 16504.

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

20 (e) (1) The proceeding for the adoption of a child who is a
21 dependent of the juvenile court shall be in the juvenile court if the
22 court finds pursuant to this section that adoption is the appropriate
23 permanent plan and the petition for adoption is filed in the juvenile
24 court. Upon the filing of a petition for adoption, the juvenile court
25 shall order that an adoption hearing be set. The court shall proceed
26 with the adoption after the appellate rights of the natural parents
27 have been exhausted. The full report required by Section 8715 of
28 the Family Code shall be read and considered by the court prior
29 to the adoption and this shall be reflected in the minutes of the
30 court. The person preparing the report may be called and examined
31 by any party to the proceeding. It is the intent of the Legislature,
32 pursuant to this subdivision, to give potential adoptive parents the
33 option of filing in the juvenile court the petition for the adoption
34 of a child who is a dependent of the juvenile court. Nothing in this
35 section is intended to prevent the filing of a petition for adoption
36 in any other court as permitted by law, instead of in the juvenile
37 court.

38 (2) In the case of an Indian child, if the Indian child's tribe has
39 elected a permanent plan of tribal customary adoption, the court,
40 upon receiving the tribal customary adoption order will afford the

1 tribal customary adoption order full faith and credit to the same
2 extent that the court would afford full faith and credit to the public
3 acts, records, judicial proceedings, and judgments of any other
4 entity. Upon a determination that the tribal customary adoption
5 order may be afforded full faith and credit, consistent with Section
6 224.5, the court shall thereafter order a hearing to finalize the
7 adoption be set upon the filing of the adoption petition. The
8 prospective tribal customary adoptive parents and the child who
9 is the subject of the tribal customary adoption petition shall appear
10 before the court for the finalization hearing. The court shall
11 thereafter issue an order of adoption pursuant to Section 366.24.

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

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

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

6 (2) If a parent appears without counsel and is unable to afford
7 counsel, the court shall appoint counsel for the parent, unless this
8 representation is knowingly and intelligently waived. The same
9 counsel shall not be appointed to represent both the child and his
10 or her parent. The public defender or private counsel may be
11 appointed as counsel for the parent.

12 (3) Private counsel appointed under this section shall receive a
13 reasonable sum for compensation and expenses, the amount of
14 which shall be determined by the court. The amount shall be paid
15 by the real parties in interest, other than the child, in any
16 proportions the court deems just. However, if the court finds that
17 any of the real parties in interest are unable to afford counsel, the
18 amount shall be paid out of the general fund of the county.

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

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

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

31 (3) (A) The testimony of the child may be taken in chambers
32 and outside the presence of the child's parent or parents, if the
33 child's parent or parents are represented by counsel, the counsel
34 is present, and any of the following circumstances exists:

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

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

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

1 (B) After testimony in chambers, the parent or parents of the
2 child may elect to have the court reporter read back the testimony
3 or have the testimony summarized by counsel for the parent or
4 parents.

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

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

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

27 (3) A child who has not been adopted after the passage of at
28 least three years from the date the court terminated parental rights
29 and for whom the court has determined that adoption is no longer
30 the permanent plan may petition the juvenile court to reinstate
31 parental rights pursuant to the procedure prescribed by Section
32 388. The child may file the petition prior to the expiration of this
33 three-year period if the State Department of Social Services, county
34 adoption agency, or licensed adoption agency that is responsible
35 for custody and supervision of the child as described in subdivision
36 (j) and the child stipulate that the child is no longer likely to be
37 adopted. A child over 12 years of age shall sign the petition in the
38 absence of a showing of good cause as to why the child could not
39 do so. If it appears that the best interests of the child may be
40 promoted by reinstatement of parental rights, the court shall order

1 that a hearing be held and shall give prior notice, or cause prior
2 notice to be given, to the social worker or probation officer and to
3 the child’s attorney of record, or, if there is no attorney of record
4 for the child, to the child, and the child’s tribe, if applicable, by
5 means prescribed by subdivision (c) of Section 297. The court
6 shall order the child or the social worker or probation officer to
7 give prior notice of the hearing to the child’s former parent or
8 parents whose parental rights were terminated in the manner
9 prescribed by subdivision (f) of Section 294 where the
10 recommendation is adoption. The juvenile court shall grant the
11 petition if it finds by clear and convincing evidence that the child
12 is no longer likely to be adopted and that reinstatement of parental
13 rights is in the child’s best interest. If the court reinstates parental
14 rights over a child who is under 12 years of age and for whom the
15 new permanent plan will not be reunification with a parent or legal
16 guardian, the court shall specify the factual basis for its findings
17 that it is in the best interest of the child to reinstate parental rights.
18 This subdivision is intended to be retroactive and applies to any
19 child who is under the jurisdiction of the juvenile court at the time
20 of the hearing regardless of the date parental rights were terminated.

21 (j) If the court, by order or judgment, declares the child free
22 from the custody and control of both parents, or one parent if the
23 other does not have custody and control, or declares the child
24 eligible for tribal customary adoption, the court shall at the same
25 time order the child referred to the State Department of Social
26 Services, county adoption agency, or licensed adoption agency for
27 adoptive placement by the agency. However, except in the case
28 of a tribal customary adoption where there is no termination of
29 parental rights, a petition for adoption may not be granted until
30 the appellate rights of the natural parents have been exhausted.
31 The State Department of Social Services, county adoption agency,
32 or licensed adoption agency shall be responsible for the custody
33 and supervision of the child and shall be entitled to the exclusive
34 care and control of the child at all times until a petition for adoption
35 or tribal customary adoption is granted, except as specified in
36 subdivision (n). With the consent of the agency, the court may
37 appoint a guardian of the child, who shall serve until the child is
38 adopted.

39 (k) Notwithstanding any other law, the application of any person
40 who, as a relative caretaker or foster parent, has cared for a

1 dependent child for whom the court has approved a permanent
2 plan for adoption, or who has been freed for adoption, shall be
3 given preference with respect to that child over all other
4 applications for adoptive placement if the agency making the
5 placement determines that the child has substantial emotional ties
6 to the relative caretaker or foster parent and removal from the
7 relative caretaker or foster parent would be seriously detrimental
8 to the child's emotional well-being.

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

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

16 (A) A petition for extraordinary writ review was filed in a timely
17 manner.

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

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

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

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

29 (A) A trial court, after issuance of an order directing a hearing
30 pursuant to this section be held, shall advise all parties of the
31 requirement of filing a petition for extraordinary writ review as
32 set forth in this subdivision in order to preserve any right to appeal
33 in these issues. This notice shall be made orally to a party if the
34 party is present at the time of the making of the order or by
35 first-class mail by the clerk of the court to the last known address
36 of a party not present at the time of the making of the order.

37 (B) The prompt transmittal of the records from the trial court
38 to the appellate court.

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

- 1 (D) That the parent or guardian, or their trial counsel or other
2 counsel, is charged with the responsibility of filing a petition for
3 extraordinary writ relief pursuant to this subdivision.
- 4 (4) The intent of this subdivision is to do both of the following:
- 5 (A) Make every reasonable attempt to achieve a substantive and
6 meritorious review by the appellate court within the time specified
7 in Sections 366.21, 366.22, and 366.25 for holding a hearing
8 pursuant to this section.
- 9 (B) Encourage the appellate court to determine all writ petitions
10 filed pursuant to this subdivision on their merits.
- 11 (5) This subdivision shall only apply to cases in which an order
12 to set a hearing pursuant to this section is issued on or after January
13 1, 1995.
- 14 (m) Except for subdivision (j), this section shall also apply to
15 minors adjudged wards pursuant to Section 727.31.
- 16 (n) (1) Notwithstanding Section 8704 of the Family Code or
17 any other law, the court, at a hearing held pursuant to this section
18 or anytime thereafter, may designate a current caretaker as a
19 prospective adoptive parent if the child has lived with the caretaker
20 for at least six months, the caretaker currently expresses a
21 commitment to adopt the child, and the caretaker has taken at least
22 one step to facilitate the adoption process. In determining whether
23 to make that designation, the court may take into consideration
24 whether the caretaker is listed in the preliminary assessment
25 prepared by the county department in accordance with subdivision
26 (i) of Section 366.21 as an appropriate person to be considered as
27 an adoptive parent for the child and the recommendation of the
28 State Department of Social Services, county adoption agency, or
29 licensed adoption agency.
- 30 (2) For purposes of this subdivision, steps to facilitate the
31 adoption process include, but are not limited to, the following:
- 32 (A) Applying for an adoption home study.
- 33 (B) Cooperating with an adoption home study.
- 34 (C) Being designated by the court or the adoption agency as the
35 adoptive family.
- 36 (D) Requesting de facto parent status.
- 37 (E) Signing an adoptive placement agreement.
- 38 (F) Engaging in discussions regarding a postadoption contact
39 agreement.

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

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

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

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

26 (B) A hearing ordered pursuant to this paragraph shall be held
27 as soon as possible and not later than five court days after the
28 petition is filed with the court or the court sets a hearing upon its
29 own motion, unless the court for good cause is unable to set the
30 matter for hearing five court days after the petition is filed, in
31 which case the court shall set the matter for hearing as soon as
32 possible. At the hearing, the court shall determine whether the
33 caretaker has met the threshold criteria to be designated as a
34 prospective adoptive parent pursuant to paragraph (1), and whether
35 the proposed removal of the child from the home of the designated
36 prospective adoptive parent is in the child's best interest, and the
37 child may not be removed from the home of the designated
38 prospective adoptive parent unless the court finds that removal is
39 in the child's best interest. If the court determines that the caretaker
40 did not meet the threshold criteria to be designated as a prospective

1 adoptive parent on the date of service of the notice of proposed
2 removal of the child, the petition objecting to the proposed removal
3 filed by the caretaker shall be dismissed. If the caretaker was
4 designated as a prospective adoptive parent prior to this hearing,
5 the court shall inquire into any progress made by the caretaker
6 towards the adoption of the child since the caretaker was designated
7 as a prospective adoptive parent.

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

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

20 (4) Notwithstanding paragraph (3), if the State Department of
21 Social Services, county adoption agency, or licensed adoption
22 agency determines that the child must be removed from the home
23 of the caretaker who is or may be a designated prospective adoptive
24 parent immediately, due to a risk of physical or emotional harm,
25 the agency may remove the child from that home and is not
26 required to provide notice prior to the removal. However, as soon
27 as possible and not longer than two court days after the removal,
28 the agency shall notify the court, the caretaker who is or may be
29 a designated prospective adoptive parent, the child's attorney, and
30 the child, if the child is 10 years of age or older, of the removal.
31 Within five court days or seven calendar days, whichever is longer,
32 of the date of notification of the removal, the child, the child's
33 attorney, or the caretaker who is or may be a designated prospective
34 adoptive parent may petition for, or the court on its own motion
35 may set, a noticed hearing pursuant to paragraph (3). The court
36 may, for good cause, extend the filing period.

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

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

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

8 *SEC. 2. Section 11253.2 of the Welfare and Institutions Code*
9 *is amended to read:*

10 11253.2. (a) Notwithstanding any other law, an application
11 for aid filed on behalf of a child to whom Section 309, 361.45, or
12 16519.5 applies shall be processed pursuant to an expedited process
13 as determined by the department in consultation with the counties.

14 (b) *Both of the following shall apply to a child described in*
15 *subdivision (a):*

16 (1) *The child shall receive the applicable regional CalWORKs*
17 *grant for a recipient in an assistance unit of one pursuant to the*
18 *exempt maximum aid payment set forth in Section 11450. Any*
19 *adjustments to CalWORKs grant amounts shall apply to a grant*
20 *described in this paragraph.*

21 (2) *The application date for the application described in*
22 *subdivision (a) shall be the date the child was placed with his or*
23 *her relative.*

24 ~~(b) Subdivision (a) shall not apply if~~

25 (c) *If the person who applies for aid on behalf of a child*
26 *described in subdivision (a) is also an applicant for or a recipient*
27 *of benefits under this ~~chapter.~~ chapter, that person shall be*
28 *responsible for applying for benefits under this chapter, and*
29 *complying with continuing eligibility requirements, for himself or*
30 *herself.*

31 ~~(e) (1) Except as provided in paragraph (2), a~~

32 (d) (1) A person who applies for aid on behalf of a child
33 described in subdivision (a) shall be exempt from Chapter 4.6
34 (commencing with Section 10830) of Part 2 governing the
35 statewide fingerprint imaging system.

36 ~~(2)~~

37 (3) A relative caregiver who is also an applicant for or a recipient
38 of benefits under this chapter shall comply with the statewide
39 fingerprint imaging system ~~requirements.~~ *requirements if applying*
40 *for or receiving benefits for himself or herself.*

1 ~~SEC. 2.~~

2 *SEC. 3.* Section 16519.5 of the Welfare and Institutions Code
3 is amended to read:

4 16519.5. (a) The State Department of Social Services, in
5 consultation with county child welfare agencies, foster parent
6 associations, and other interested community parties, shall
7 implement a unified, family friendly, and child-centered resource
8 family approval process to replace the existing multiple processes
9 for licensing foster family homes, approving relatives and
10 nonrelative extended family members as foster care providers, and
11 approving adoptive families.

12 (b) (1) Counties shall be selected to participate on a voluntary
13 basis as early implementation counties for the purpose of
14 participating in the initial development of the approval process.
15 Early implementation counties shall be selected according to
16 criteria developed by the department in consultation with the
17 County Welfare Directors Association. In selecting the five early
18 implementation counties, the department shall promote diversity
19 among the participating counties in terms of size and geographic
20 location.

21 (2) Additional counties may participate in the early
22 implementation of the program upon authorization by the
23 department.

24 (c) (1) For the purposes of this chapter, “resource family” means
25 an individual or couple that a participating county or foster family
26 agency, as defined in subdivision (g) of Section 11400 of this code,
27 and paragraph (4) of subdivision (a) of Section 1502 of the Health
28 and Safety Code, determines to have successfully met both the
29 home environment assessment standards and the permanency
30 assessment criteria adopted pursuant to subdivision (d) necessary
31 for providing care for a related or unrelated child who is under the
32 jurisdiction of the juvenile court, or otherwise in the care of a
33 county child welfare agency or probation department. A resource
34 family shall demonstrate all of the following:

35 (A) An understanding of the safety, permanence, and well-being
36 needs of children who have been victims of child abuse and neglect,
37 and the capacity and willingness to meet those needs, including
38 the need for protection, and the willingness to make use of support
39 resources offered by the agency, or a support structure in place,
40 or both.

1 (B) An understanding of children’s needs and development,
2 effective parenting skills or knowledge about parenting, and the
3 capacity to act as a reasonable, prudent parent in day-to-day
4 decisionmaking.

5 (C) An understanding of his or her role as a resource family and
6 the capacity to work cooperatively with the agency and other
7 service providers in implementing the child’s case plan.

8 (D) The financial ability within the household to ensure the
9 stability and financial security of the family. A family who will
10 rely on ~~AFDC-FC~~ *AFDC-FC, Kin-Gap, or Adoption Assistance*
11 *Program* benefits to meet additional household expenses incurred
12 due to the placement of a child or children shall not, for this reason,
13 be denied approval as a resource family.

14 (E) An ability and willingness to provide a family setting that
15 promotes normal childhood experiences that serves the needs of
16 the child.

17 (2) (A) ~~Subsequent~~ *Except as provided in subparagraph (B),*
18 *subsequent* to meeting the criteria set forth in this subdivision and
19 designation as a resource family, a resource family shall be
20 considered eligible to provide foster care for related and unrelated
21 children in out-of-home placement, shall be considered approved
22 for adoption or guardianship, and shall not have to undergo any
23 additional approval or licensure as long as the family lives in a
24 county participating in the program.

25 (B) (i) Notwithstanding subparagraph (A), ~~a~~ *an applicant who*
26 *is a relative or non-related extended family member may be*
27 *approved as a resource family only for the placement of a specific*
28 *child or children if exceptional circumstances exist indicating that*
29 *the placement is in the best interest of the specific child or children*
30 *and the applicant is not able to care for other or additional*
31 *children.*

32 (ii) A family approved only for the placement of a specific child
33 or children, pursuant to paragraph (5) of subdivision (e) *or pursuant*
34 *to clause (i)* shall be reassessed prior to the placement of any other
35 or additional children. ~~An applicant who is a relative or nonrelative~~
36 ~~extended family member shall be approved only for the placement~~
37 ~~of a specific child or children, if exceptional circumstances exist~~
38 ~~indicating that the placement is in the best interest of the specific~~
39 ~~child or children, but the applicant is not able or not willing to care~~
40 ~~for other or additional children. If~~

1 (iii) If a relative seeking approval as a resource family for a
 2 specific child or children is willing and able to provide a stable
 3 and permanent home for the child or children, but not willing to
 4 become a legal guardian or adoptive parent, the permanency
 5 assessment shall take into account the provision for a permanent
 6 plan of placement with a fit and willing relative pursuant to
 7 subparagraph (B) of paragraph (4) of subdivision (c) of Section
 8 366.26, and approval *as a resource family* shall not be denied for
 9 this reason.

10 (3) Resource family approval means that the applicant
 11 successfully meets the home environment assessment and
 12 permanency assessment standards. This approval is in lieu of the
 13 existing foster care license, relative or nonrelative extended family
 14 member approval, and the adoption home study approval.

15 (4) Approval of a resource family does not guarantee an initial
 16 or continued placement of a child with a resource family.

17 (5) Notwithstanding paragraphs (1) to (4), inclusive, the
 18 department or county may cease any further review of an
 19 application if the applicant has had a previous application denial
 20 within the preceding year, or if the applicant has had a previous
 21 rescission, revocation, or exemption denial or rescission by the
 22 department or county within the preceding two years. However,
 23 the department or county may continue to review an application
 24 if it has determined that the reasons for the previous denial,
 25 rescission, or revocation were due to circumstances and conditions
 26 that either have been corrected or are no longer in existence. If an
 27 individual was excluded from a resource family home or facility
 28 licensed by the department, the department or county shall cease
 29 review of the individual's application unless the excluded
 30 individual has been reinstated pursuant to Section 11522 of the
 31 Government Code. The cessation of review shall not constitute a
 32 denial of the application for purposes of this section or any other
 33 law.

34 (d) Prior to implementation of this program, the department
 35 shall adopt standards pertaining to the home environment and
 36 permanency assessments of a resource family.

37 (1) Resource family home environment assessment standards
 38 shall include, but not be limited to, all of the following:

39 (A) (i) Criminal records clearance of all adults residing in, or
 40 regularly present in, the home, and not exempted from

1 fingerprinting, as set forth in subdivision (b) of Section 1522 of
2 the Health and Safety Code, pursuant to Section 8712 of the Family
3 Code, utilizing a check of the Child Abuse Central Index (CACI),
4 and receipt of a fingerprint-based state and federal criminal
5 offender record information search response. The criminal history
6 information shall include subsequent notifications pursuant to
7 Section 11105.2 of the Penal Code.

8 (ii) Consideration of any substantiated allegations of child abuse
9 or neglect against either the applicant or any other adult residing
10 in the home. An approval may not be granted to applicants whose
11 criminal record indicates a conviction for any of the offenses
12 specified in subdivision (g) of Section 1522 of the Health and
13 Safety Code.

14 (iii) If the resource family parent, applicant, or any other person
15 specified in subdivision (b) of Section 1522 of the Health and
16 Safety Code has been convicted of a crime other than a minor
17 traffic violation, except for the civil penalty language, the criminal
18 background check provisions specified in subdivisions (d) through
19 (f) of Section 1522 of the Health and Safety Code shall apply.
20 Exemptions from the criminal records clearance requirements set
21 forth in this section may be granted by the director or the early
22 implementation county, if that county has been granted permission
23 by the director to issue criminal records exemptions pursuant to
24 Section 361.4, using the exemption criteria currently used for foster
25 care licensing as specified in subdivision (g) of Section 1522 of
26 the Health and Safety Code.

27 (iv) For public foster family agencies approving resource
28 families, the criminal records clearance process set forth in clause
29 (i) shall be utilized.

30 (v) For private foster family agencies approving resource
31 families, the criminal records clearance process set forth in clause
32 (i) shall be utilized, but the Department of Justice shall disseminate
33 a fitness determination resulting from the federal criminal offender
34 record information search.

35 (B) Buildings and grounds and storage requirements set forth
36 in Sections 89387 and 89387.2 of Title 22 of the California Code
37 of Regulations.

38 (C) In addition to the foregoing requirements, the resource
39 family home environment assessment standards shall also require
40 the following:

1 (i) That the applicant demonstrate an understanding about the
2 rights of children in care and his or her responsibility to safeguard
3 those rights.

4 (ii) That the total number of children residing in the home of a
5 resource family shall be no more than the total number of children
6 the resource family can properly care for, regardless of status, and
7 shall not exceed six children, unless exceptional circumstances
8 that are documented in the foster child's case file exist to permit
9 a resource family to care for more children, including, but not
10 limited to, the need to place siblings together.

11 (iii) That the applicant understands his or her responsibilities
12 with respect to acting as a reasonable and prudent parent, and
13 maintaining the least restrictive environment that serves the needs
14 of the child.

15 (2) The resource family permanency assessment standards shall
16 include, but not be limited to, all of the following:

17 (A) The applicant shall complete caregiver training.

18 (B) (i) The applicant shall complete a psychosocial assessment,
19 which shall include the results of a risk assessment.

20 (ii) A caregiver risk assessment shall include, but shall not be
21 limited to, physical and mental health, alcohol and other substance
22 use and abuse, family and domestic violence, and the factors listed
23 in subparagraphs (A) and (D) of paragraph (1) of subdivision (c).

24 (iii) *If the applicant has a child or children placed with him or*
25 *her pursuant to paragraph (5) of subdivision (e), or is applying*
26 *to become a resource family for a specific child or children*
27 *pursuant to subparagraph (B) of paragraph (2) of subdivision (c),*
28 *the relationship between the applicant and the child or children*
29 *shall be considered as a factor in the psychosocial assessment.*

30 (C) The applicant shall complete any other activities that relate
31 to a resource family's ability to achieve permanency with the child.

32 (e) (1) A child may be placed with a resource family that has
33 successfully completed the home environment assessment prior
34 to completion of a permanency assessment only if a compelling
35 reason for the placement exists based on the needs of the child.

36 (2) The permanency assessment shall be completed within 90
37 days of the child's placement in the home, unless good cause exists
38 based upon the needs of the child.

39 (3) If additional time is needed to complete the permanency
40 assessment, the county shall document the extenuating

1 circumstances for the delay and generate a timeframe for the
2 completion of the permanency assessment.

3 (4) The county shall report to the department on a quarterly
4 basis the number of families with a child in an approved home
5 whose permanency assessment goes beyond 90 days and
6 summarize the reasons for these delays.

7 (5) Relatives and nonrelative extended family members, as
8 defined in Section 362.7, shall continue to be assessed and given
9 consideration for placement as described in Sections 309, 319,
10 361.3, and 362.7. A child may be placed with a relative or
11 nonrelative extended family member prior to applying as a resource
12 family only on an emergency basis if all of the following
13 requirements are met:

14 (A) Consideration of the results of a criminal records check
15 conducted pursuant to Section 16504.5 of the relative or nonrelative
16 extended family member and of every other adult in the home.

17 (B) Consideration of the results of the Child Abuse Central
18 Index (CACI) consistent with Section 1522.1 of the Health and
19 Safety Code of the relative or nonrelative extended family member,
20 and of every other adult in the home.

21 (C) The home and grounds are free of conditions that pose undue
22 risk to the health and safety of the child.

23 (D) For any placement made pursuant to this paragraph, the
24 county shall initiate the home environment assessment no later
25 than five business days after the placement, which shall include a
26 face-to-face interview with the resource family applicant and child.

27 (E) (i) For any placement made pursuant to this paragraph,
28 AFDC-FC funding shall not be available until approval of the
29 resource family has been completed. *The county shall complete*
30 *an application for CalWORKs benefits pursuant to Section 11253.2*
31 *for each child placed pursuant to this paragraph to enable the*
32 *receipt of benefits while resource family approval is pending. The*
33 *application date for CalWORKs benefits shall be the date the child*
34 *was placed with his or her relative.*

35 (ii) Notwithstanding clause (i), if the resource family approval
36 process is not completed within 90 days after placement due to
37 circumstances outside the control of the resource family, then the
38 beginning date of aid for AFDC-FC shall be no later than 90 days
39 after placement.

- 1 (F) Any child placed under this section shall be afforded all the
2 rights set forth in Section 16001.9.
- 3 (f) The State Department of Social Services shall be responsible
4 for all of the following:
- 5 (1) Selecting early implementation counties, based on criteria
6 established by the department in consultation with the County
7 Welfare Directors Association.
- 8 (2) Establishing timeframes for participating counties to submit
9 an implementation plan, enter into terms and conditions for
10 participation in the program, train appropriate staff, and accept
11 applications from resource families.
- 12 (3) Entering into terms and conditions for participation in the
13 program by counties.
- 14 (4) Administering the program through the issuance of written
15 directives that shall have the same force and effect as regulations.
16 Any directive affecting Article 1 (commencing with Section 700)
17 of Chapter 7 of Title 11 of the California Code of Regulations shall
18 be approved by the Department of Justice. The directives shall be
19 exempt from the rulemaking provisions of the Administrative
20 Procedure Act (Chapter 3.5 (commencing with Section 11340))
21 of Part 1 of Division 3 of Title 2 of the Government Code.
- 22 (5) Approving and requiring the use of a single standard for
23 resource family approval.
- 24 (6) Adopting and requiring the use of standardized
25 documentation for the home environment and permanency
26 assessments of resource families.
- 27 (7) Requiring counties to monitor resource families including,
28 but not limited to, all of the following:
- 29 (A) Investigating complaints of resource families.
- 30 (B) Developing and monitoring resource family corrective action
31 plans to correct identified deficiencies and to rescind resource
32 family approval if compliance with corrective action plans is not
33 achieved.
- 34 (8) Ongoing oversight and monitoring of county systems and
35 operations including all of the following:
- 36 (A) Reviewing the county's implementation of the program.
- 37 (B) Reviewing an adequate number of approved resource
38 families in each participating county to ensure that approval
39 standards are being properly applied. The review shall include
40 case file documentation, and may include onsite inspection of

1 individual resource families. The review shall occur on an annual
2 basis, and more frequently if the department becomes aware that
3 a participating county is experiencing a disproportionate number
4 of complaints against individual resource family homes.

5 (C) Reviewing county reports of serious complaints and
6 incidents involving approved resource families, as determined
7 necessary by the department. The department may conduct an
8 independent review of the complaint or incident and change the
9 findings depending on the results of its investigation.

10 (D) Investigating unresolved complaints against participating
11 counties.

12 (E) Requiring corrective action of counties that are not in full
13 compliance with the terms and conditions of the program.

14 (9) Updating the Legislature on the early implementation phase
15 of the program, including the status of implementation, successes,
16 and challenges during the early implementation phase, and relevant
17 available data, including resource family satisfaction.

18 (10) Implementing due process procedures, including all of the
19 following:

20 (A) Providing a statewide fair hearing process for denials,
21 rescissions, or exclusion actions.

22 (B) Amending the department's applicable state hearing
23 procedures and regulations or using the Administrative Procedure
24 Act, when applicable, as necessary for the administration of the
25 program.

26 (g) Counties participating in the program shall be responsible
27 for all of the following:

28 (1) Submitting an implementation plan, entering into terms and
29 conditions for participation in the program, consulting with the
30 county probation department in the development of the
31 implementation plan, training appropriate staff, and accepting
32 applications from resource families within the timeframes
33 established by the department.

34 (2) Complying with the written directives pursuant to paragraph
35 (4) of subdivision (f).

36 (3) Implementing the requirements for resource family approval
37 and utilizing standardized documentation established by the
38 department.

- 1 (4) Ensuring staff have the education and experience necessary
2 to complete the home environment and psychosocial assessments
3 competently.
- 4 (5) (A) Taking the following actions, as applicable:
5 (i) Approving or denying resource family applications.
6 (ii) Rescinding approvals of resource families.
7 (iii) Excluding a resource family parent or other individual from
8 presence in a resource family home, consistent with the established
9 standard.
- 10 (iv) Issuing a temporary suspension order that suspends the
11 resource family approval prior to a hearing when urgent action is
12 needed to protect a child or nonminor dependent from physical or
13 mental abuse, abandonment, or any other substantial threat to
14 health or safety, consistent with the established standard.
- 15 (B) Providing a resource family parent, applicant, or excluded
16 individual requesting review of that decision with due process
17 pursuant to the department's statutes, regulations, and written
18 directives.
- 19 (C) Notifying the department of any decisions denying a
20 resource family's application or rescinding the approval of a
21 resource family, excluding an individual, or taking other
22 administrative action.
- 23 (D) Issuing a temporary suspension order that suspends the
24 resource family approval prior to a hearing, when urgent action is
25 needed to protect a child or nonminor dependent who is or may
26 be placed in the home from physical or mental abuse, abandonment,
27 or any other substantial threat to health or safety.
- 28 (6) Updating resource family approval annually.
- 29 (7) Monitoring resource families through all of the following:
30 (A) Ensuring that social workers who identify a condition in
31 the home that may not meet the approval standards set forth in
32 subdivision (d) while in the course of a routine visit to children
33 placed with a resource family take appropriate action as needed.
- 34 (B) Requiring resource families to comply with corrective action
35 plans as necessary to correct identified deficiencies. If corrective
36 action is not completed as specified in the plan, the county may
37 rescind the resource family approval.
- 38 (C) Requiring resource families to report to the county child
39 welfare agency any incidents consistent with the reporting
40 requirements for licensed foster family homes.

1 (8) Investigating all complaints against a resource family and
2 taking action as necessary. This shall include investigating any
3 incidents reported about a resource family indicating that the
4 approval standard is not being maintained.

5 (A) The child's social worker shall not conduct the formal
6 investigation into the complaint received concerning a family
7 providing services under the standards required by subdivision
8 (d). To the extent that adequate resources are available, complaints
9 shall be investigated by a worker who did not initially conduct the
10 home environment or psychosocial assessments.

11 (B) Upon conclusion of the complaint investigation, the final
12 disposition shall be reviewed and approved by a supervising staff
13 member.

14 (C) The department shall be notified of any serious incidents
15 or serious complaints or any incident that falls within the definition
16 of Section 11165.5 of the Penal Code. If those incidents or
17 complaints result in an investigation, the department shall also be
18 notified as to the status and disposition of that investigation.

19 (9) Performing corrective action as required by the department.

20 (10) Assessing county performance in related areas of the
21 California Child and Family Services Review System, and
22 remedying problems identified.

23 (11) Submitting information and data that the department
24 determines is necessary to study, monitor, and prepare the report
25 specified in paragraph (9) of subdivision (f).

26 (12) Ensuring resource family applicants and resource families
27 have the necessary knowledge, skills, and abilities to support
28 children in foster care by completing caregiver training. The
29 training should include a curriculum that supports the role of a
30 resource family in parenting vulnerable children and should be
31 ongoing in order to provide resource families with information on
32 trauma-informed practices and requirements and other topics within
33 the foster care system.

34 (13) Ensuring that a resource family applicant completes a
35 minimum of 12 hours of preapproval training. The training shall
36 include, but not be limited to, all of the following courses:

37 (A) An overview of the child protective and probation systems.

38 (B) The effects of trauma, including grief and loss, and child
39 abuse and neglect, on child development and behavior, and

- 1 methods to behaviorally support children impacted by that trauma
- 2 or child abuse and neglect.
- 3 (C) Positive discipline and the importance of self-esteem.
- 4 (D) Health issues in foster care.
- 5 (E) Accessing services and supports to address education needs,
- 6 physical, mental, and behavioral health, and substance use
- 7 disorders, including culturally relevant services.
- 8 (F) The rights of a child in foster care, and the resource family’s
- 9 responsibility to safeguard those rights, including the right to have
- 10 fair and equal access to all available services, placement, care,
- 11 treatment, and benefits, and to not be subjected to discrimination
- 12 or harassment on the basis of actual or perceived race, ethnic group
- 13 identification, ancestry, national origin, color, religion, sex, sexual
- 14 orientation, gender identity, mental or physical disability, or HIV
- 15 status.
- 16 (G) Cultural needs of children, including instruction on cultural
- 17 competency and sensitivity, and related best practices for providing
- 18 adequate care for children or youth across diverse ethnic and racial
- 19 backgrounds, as well as children or youth identifying as lesbian,
- 20 gay, bisexual, or transgender.
- 21 (H) Basic instruction on existing laws and procedures regarding
- 22 the safety of foster youth at school; and ensuring a harassment and
- 23 violence free school environment pursuant to Article 3.6
- 24 (commencing with Section 32228) of Chapter 2 of Part 19 of
- 25 Division 1 of Title 1 of the Education Code.
- 26 (I) Permanence, well-being, and education needs of children.
- 27 (J) Child and adolescent development, including sexual
- 28 orientation, gender identity, and expression.
- 29 (K) The role of resource families, including working
- 30 cooperatively with the child welfare or probation agency, the
- 31 child’s family, and other service providers implementing the case
- 32 plan.
- 33 (L) The role of a resource family on the child and family team
- 34 as defined in paragraph (4) of subdivision (a) of Section 16501.
- 35 (M) A resource family’s responsibility to act as a reasonable
- 36 and prudent parent, and to provide a family setting that promotes
- 37 normal childhood experiences and that serves the needs of the
- 38 child.
- 39 (N) An overview of the specialized training identified in
- 40 subdivision (h).

1 (14) Ensuring approved resource families complete a minimum
2 of eight training hours annually, a portion of which shall be from
3 one or more of the topics listed in paragraph (13).

4 (h) In addition to any training required by this section, a resource
5 family may be required to receive specialized training, as relevant,
6 for the purpose of preparing the resource family to meet the needs
7 of a particular child in care. This training may include, but is not
8 limited to, the following:

9 (1) Understanding how to use best practices for providing care
10 and supervision to commercially sexually exploited children.

11 (2) Understanding how to use best practices for providing care
12 and supervision to lesbian, gay, bisexual, and transgender children.

13 (3) Understanding the requirements and best practices regarding
14 psychotropic medications, including, but not limited to, court
15 authorization, benefits, uses, side effects, interactions, assistance
16 with self-administration, misuse, documentation, storage, and
17 metabolic monitoring of children prescribed psychotropic
18 medications.

19 (4) Understanding the federal Indian Child Welfare Act (25
20 U.S.C. Sec. 1901 et seq.), its historical significance, the rights of
21 children covered by the act, and the best interests of Indian
22 children, including the role of the caregiver in supporting culturally
23 appropriate, child-centered practices that respect Native American
24 history, culture, retention of tribal membership and connection to
25 the tribal community and traditions.

26 (5) Understanding how to use best practices for providing care
27 and supervision to nonminor dependents.

28 (6) Understanding how to use best practices for providing care
29 and supervision to children with special health care needs.

30 (7) Understanding the different permanency options and the
31 services and benefits associated with the options.

32 (i) Nothing in this section shall preclude a county or a foster
33 family agency from requiring resource family training in excess
34 of the requirements in this section.

35 (j) (1) Approved relatives and nonrelative extended family
36 members, licensed foster family homes, or approved adoptive
37 homes that have completed the license or approval process prior
38 to full implementation of the program shall not be considered part
39 of the program. The otherwise applicable assessment and oversight

1 processes shall continue to be administered for families and
2 facilities not included in the program.

3 (2) Upon implementation of the program in a county, that
4 county may not accept new applications for the licensure of foster
5 family homes, the approval of relative and nonrelative extended
6 family members, or the approval of prospective adoptive homes.

7 (k) The department may waive regulations that pose a barrier
8 to implementation and operation of this program. The waiver of
9 any regulations by the department pursuant to this section shall
10 apply to only those counties or foster family agencies participating
11 in the program and only for the duration of the program.

12 (l) Resource families approved under initial implementation of
13 the program, who move within an early implementation county or
14 who move to another early implementation county, shall retain
15 their resource family status if the new building and grounds,
16 outdoor activity areas, and storage areas meet home environment
17 standards. The State Department of Social Services or early
18 implementation county may allow a program-affiliated individual
19 to transfer his or her subsequent arrest notification if the individual
20 moves from one early implementation county to another early
21 implementation county, as specified in subdivision (g) of Section
22 1522 of the Health and Safety Code.

23 (m) (1) The approval of a resource family who moves to a
24 nonparticipating county remains in full force and effect pending
25 a determination by the county approval agency or the department,
26 as appropriate, whether the new building and grounds and storage
27 areas meet applicable standards, and whether all adults residing
28 in the home have a criminal records clearance or exemptions
29 granted, using the exemption criteria used for foster care licensing,
30 as specified in subdivision (g) of Section 1522 of the Health and
31 Safety Code. Upon this determination, the nonparticipating county
32 shall either approve the family as a relative or nonrelative extended
33 family member, as applicable, or the department shall license the
34 family as a foster family home.

35 (2) Subject to the requirements in paragraph (1), the family shall
36 continue to be approved for guardianship and adoption. Nothing
37 in this subdivision shall limit a county or adoption agency from
38 determining that the family is not approved for guardianship or
39 adoption based on changes in the family's circumstances or
40 psychosocial assessment.

1 (3) A program-affiliated individual who moves to a
2 nonparticipating county may not transfer his or her subsequent
3 arrest notification from a participating county to the
4 nonparticipating county.

5 (n) Implementation of the program shall be contingent upon the
6 continued availability of federal Social Security Act Title IV-E
7 (42 U.S.C. Sec. 670) funds for costs associated with placement of
8 children with resource families assessed and approved under the
9 program.

10 (o) A child placed with a resource family shall be eligible for
11 AFDC-FC payments. A resource family, or a foster family agency
12 pursuant to subdivisions (s) and (t), shall be paid an AFDC-FC
13 rate pursuant to Sections 11460, 11461, and 11463. Sharing ratios
14 for nonfederal expenditures for all costs associated with activities
15 related to the approval of relatives and nonrelative extended family
16 members shall be in accordance with Section 10101.

17 (p) The Department of Justice shall charge fees sufficient to
18 cover the cost of initial or subsequent criminal offender record
19 information and Child Abuse Central Index searches, processing,
20 or responses, as specified in this section.

21 (q) Except as provided, approved resource families under this
22 program shall be exempt from all of the following:

23 (1) Licensure requirements set forth under the Community Care
24 Facilities Act, commencing with Section 1500 of the Health and
25 Safety Code, and all regulations promulgated thereto.

26 (2) Relative and nonrelative extended family member approval
27 requirements set forth under Sections 309, 361.4, and 362.7, and
28 all regulations promulgated thereto.

29 (3) Adoptions approval and reporting requirements set forth
30 under Section 8712 of the Family Code, and all regulations
31 promulgated thereto.

32 (r) (1) Early implementation counties shall be authorized to
33 continue through December 31, 2016. The program shall be
34 implemented by each county on or before January 1, 2017.

35 (2) No later than July 1, 2017, each county shall provide the
36 following information to all licensed foster family homes and all
37 approved relatives and nonrelative extended family members:

38 (A) A detailed description of the resource family approval
39 program.

1 (B) Notification that, in order to care for a foster child, resource
2 family approval is required by December 31, 2019.

3 (C) Notification that a foster family home license and an
4 approval of a relative or nonrelative extended family member shall
5 be forfeited by operation of law as provided for in paragraph (4).

6 (3) By no later than January 1, 2018, the following shall apply
7 to all licensed foster family homes and approved relative and
8 nonrelative extended family members:

9 (A) A licensed foster family home, and an approved relative or
10 nonrelative extended family member with an approved adoptive
11 home study completed prior to January 1, 2018, shall be deemed
12 to be an approved resource family.

13 (B) A licensed foster family home, and an approved relative or
14 nonrelative extended family member who had a child in placement
15 at any time, for any length of time, between January 1, 2017, and
16 December 31, 2017, inclusive, may be approved as a resource
17 family on the date of successful completion of a psychosocial
18 assessment pursuant to subparagraph (B) of paragraph (2) of
19 subdivision (d).

20 (C) A county may provide supportive services to all licensed
21 foster family home providers, relatives, and nonrelative extended
22 family members with a child in placement to assist with the
23 resource family transition and to minimize placement disruptions.

24 (4) All foster family licenses and approvals of a relative or
25 nonrelative extended family member shall be forfeited by operation
26 of law on December 31, 2019, except as provided in this paragraph:

27 (A) All licensed foster family homes that did not have a child
28 in placement at any time, for any length of time, between January
29 1, 2017, and December 31, 2017, inclusive, shall forfeit the license
30 by operation of law on January 1, 2018.

31 (B) For foster family home licensees and approved relatives or
32 nonrelative extended family members who have a pending resource
33 family application on December 31, 2019, the foster family home
34 license or relative and nonrelative extended family member
35 approval shall be forfeited by operation of law on the date of
36 approval as a resource family. If approval is denied, forfeiture by
37 operation of law shall occur on the date of completion of any
38 proceedings required by law to ensure due process.

39 (s) On and after January 1, 2017, all licensed foster family
40 agencies shall approve resource families in lieu of certifying foster

1 homes. A foster family agency or a short-term residential treatment
2 center pursuant to subdivision (b) of Section 11462 shall require
3 applicants and resource families to meet the resource family
4 approval standards and requirements set forth in this chapter and
5 in the written directives adopted pursuant to this chapter prior to
6 approval and in order to maintain approval.

7 (t) Commencing January 1, 2016, the department may establish
8 participation conditions, and select and authorize foster family
9 agencies that voluntarily submit implementation plans and revised
10 plans of operation in accordance with requirements established by
11 the department, to approve resource families in lieu of certifying
12 foster homes.

13 (1) Notwithstanding any other law, a participating foster family
14 agency shall require resource families to meet and maintain the
15 resource family approval standards and requirements set forth in
16 this chapter and in the written directives adopted hereto prior to
17 approval and in order to maintain approval.

18 (2) A participating foster family agency shall implement the
19 resource family approval program pursuant to Section 1517 of the
20 Health and Safety Code.

21 (3) Nothing in this section shall be construed to limit the
22 authority of the department to inspect, evaluate, or investigate a
23 complaint or incident, or initiate a disciplinary action against a
24 foster family agency pursuant to Article 5 (commencing with
25 Section 1550) of Chapter 3 of Division 2 of the Health and Safety
26 Code, or to take any action it may deem necessary for the health
27 and safety of children placed with the foster family agency.

28 (4) The department may adjust the foster family agency
29 AFDC-FC rate pursuant to Section 11463 for implementation of
30 this subdivision.

31 (u) A determination to deny approval of a resource family shall
32 be reviewed by county staff at the supervisory or administrative
33 level for compliance with the approval standards set forth pursuant
34 to this section. This subdivision does not affect the right of an
35 applicant to request an administrative hearing pursuant to Section
36 10950.

37 ~~SEC. 3. To the extent that this act has an overall effect of~~
38 ~~increasing the costs already borne by a local agency for programs~~
39 ~~or levels of service mandated by the 2011 Realignment Legislation~~
40 ~~within the meaning of Section 36 of Article XIII of the California~~

1 Constitution, it shall apply to local agencies only to the extent that
2 the state provides annual funding for the cost increase. Any new
3 program or higher level of service provided by a local agency
4 pursuant to this act above the level for which funding has been
5 provided shall not require a subvention of funds by the state nor
6 otherwise be subject to Section 6 of Article XIII B of the California
7 Constitution.

8 *SEC. 4. To the extent that this act has an overall effect of*
9 *increasing certain costs already borne by a local agency for*
10 *programs or levels of service mandated by the 2011 Realignment*
11 *Legislation within the meaning of Section 36 of Article XIII of the*
12 *California Constitution, it shall apply to local agencies only to the*
13 *extent that the state provides annual funding for the cost increase.*
14 *Any new program or higher level of service provided by a local*
15 *agency pursuant to this act above the level for which funding has*
16 *been provided shall not require a subvention of funds by the state*
17 *nor otherwise be subject to Section 6 of Article XIII B of the*
18 *California Constitution.*

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