

ASSEMBLY BILL

No. 2872

Introduced by Assembly Member Patterson

February 19, 2016

An act to amend Sections 7660.5, 7662, 7666, 7667, 8619, and 9001 of the Health and Safety Code, and to amend Sections 305.6, 366.21, and 827 of the Welfare and Institutions Code, relating to children.

LEGISLATIVE COUNSEL'S DIGEST

AB 2872, as introduced, Patterson. Children.

(1) Under existing law, a man is conclusively presumed to be the father of a child if he was married to and cohabiting with the child's mother, except as specified. Existing law authorizes a presumed father to waive the right to notice of any adoption proceedings by executing a form developed by the State Department of Social Services before an authorized representative of the department, among others.

This bill would, among other things, additionally authorize a presumed father to deny paternity by executing a form developed by the department and before an authorized representative of the department, among others.

(2) Existing law requires notice of adoption proceedings to be given to every person identified as the biological father or a possible biological father at least 10 days before the date of the proceeding, except notice is not required and the court shall issue an order dispensing with notice to a person under specified circumstances, including that the alleged father has been served with written notice of his alleged paternity and the proposed adoption and he has failed to bring an action.

This bill would instead not require notice if the alleged father has failed to file and personally serve notice of action, as specified, and

would additionally not require notice if the child was conceived as a result of rape and the father was convicted of the rape.

(3) Existing law prohibits a peace officer from taking into temporary custody, without a warrant, a minor who is in a hospital if specified conditions exist, including that the minor is a newborn who tested positive for illegal drugs or whose birth mother tested positive for illegal drugs or the minor is the subject of a proposed adoption and a Health Facility Minor Release Report has been completed by the hospital, as specified.

This bill would instead prohibit a peace officer or child welfare agency worker from taking into temporary custody, without a warrant, a minor who is in a hospital, if among other conditions, the minor is a newborn who is or may come within the description of a dependent child of the juvenile court. The bill would require the appropriate hospital personnel to complete a Health Facility Minor Release Report and provide copies to specified parties upon request by a parent. The bill would require a child welfare agency worker who investigates the safety and well-being of a minor newborn, prior to filing a dependency petition for a minor newborn who has not yet been discharged from the hospital, to allow a parent who wishes to place the minor newborn for adoption a reasonable opportunity to do so before the minor newborn is discharged from the hospital. By creating additional duties for local officials, this bill would impose a state-mandated local program.

(4) Existing law requires a social worker to provide the parents or legal guardian, counsel for the child, and any court-appointed child advocate with a copy of the supplemental report filed with the court regarding the services provided or offered to the parent or legal guardian, as specified, at least 10 days prior to a hearing conducted by the juvenile court reviewing the status of a dependent child.

This bill would instead require the social worker to provide a copy of the report to all parties, counsel for all parties, and any court-appointed child advocate. By creating additional duties for local officials, this bill would impose a state-mandated local program.

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

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

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

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

1 SECTION 1. Section 7660.5 of the Family Code is amended
2 to read:
3 7660.5. Notwithstanding any other ~~provision~~ of law, a
4 presumed father may *deny paternity or* waive the right to notice
5 of any adoption proceeding by executing a form developed by the
6 department before an authorized representative of the department,
7 an authorized representative of a licensed public or private adoption
8 agency, or a notary public or other person authorized to perform
9 notarial acts. The *denial of paternity or* waiver of notice form may
10 be validly executed before or after the birth of the child, and once
11 ~~signed~~ *signed*, ~~no notice~~, *notice of*, relinquishment for, or consent
12 ~~to to~~, adoption of the child shall be required from the father for
13 the adoption to proceed. This shall be a voluntary and informed
14 *denial or* waiver without undue influence. If the child is an Indian
15 child as defined under the Indian Child Welfare Act (ICWA), any
16 waiver of consent by an Indian presumed father shall be executed
17 in accordance with the requirements for voluntary adoptions set
18 forth in Section 1913 of Title 25 of the United States Code. The
19 waiver shall not affect the rights of any known federally recognized
20 Indian tribe or tribes from which the child or the presumed father
21 may be descended to notification of, or participation in, adoption
22 proceedings as provided by the ICWA. Notice that the waiver has
23 been executed shall be given to any known federally recognized
24 Indian tribe or tribes from which the child or the presumed father
25 may be descended, as required by the ICWA.

26 SEC. 2. Section 7662 of the Family Code is amended to read:
27 7662. (a) If a mother relinquishes for or consents to, or
28 proposes to relinquish for or consent to, the adoption of a child,
29 or if a child otherwise becomes the subject of an adoption
30 proceeding, the agency or person to whom the child has been or
31 is to be relinquished, or the mother or the person having physical
32 or legal custody of the child, or the prospective adoptive parent,
33 shall file a petition to terminate the parental rights of the alleged
34 father, unless ~~one of the following occurs~~: *notice to the alleged*

1 *father of an action would not be required pursuant to subdivision*
 2 *(b) of Section 7666.*

3 ~~(1) The alleged father’s relationship to the child has been~~
 4 ~~previously terminated or determined not to exist by a court.~~

5 ~~(2) The alleged father has been served as prescribed in Section~~
 6 ~~7666 with a written notice alleging that he is or could be the~~
 7 ~~biological father of the child to be adopted or placed for adoption~~
 8 ~~and has failed to bring an action for the purpose of declaring the~~
 9 ~~existence of the father and child relationship pursuant to~~
 10 ~~subdivision (c) of Section 7630 within 30 days of service of the~~
 11 ~~notice or the birth of the child, whichever is later.~~

12 ~~(3) The alleged father has executed a written form developed~~
 13 ~~by the department to waive notice, to deny his paternity, relinquish~~
 14 ~~the child for adoption, or consent to the adoption of the child.~~

15 (b) The alleged father may validly execute a waiver or denial
 16 of paternity before or after the birth of the child, and, once signed,
 17 no notice of, relinquishment for, or consent to, adoption of the
 18 child shall be required from the alleged father for the adoption to
 19 proceed.

20 (c) Except as provided in this subdivision and subdivision (d),
 21 all proceedings affecting a child, including proceedings under
 22 Divisions 8 (commencing with Section 3000) to 11 (commencing
 23 with Section 6500), inclusive, Part 1 (commencing with Section
 24 7500) to Part 3 (commencing with Section 7600), inclusive, of this
 25 division, and Part 1 (commencing with Section 1400), Part 2
 26 (commencing with Section 1500), and Part 4 (commencing with
 27 Section 2100) of Division 4 of the Probate Code, and any motion
 28 or petition for custody or visitation filed in a proceeding under this
 29 part, shall be stayed. The petition to terminate parental rights under
 30 this section is the only matter that may be heard during the stay
 31 until the court issues a final ruling on the petition.

32 (d) This section does not limit the jurisdiction of the court
 33 pursuant to Part 3 (commencing with Section 6240) and Part 4
 34 (commencing with Section 6300) of Division 10 with respect to
 35 domestic violence orders, or pursuant to Article 6 (commencing
 36 with Section 300) of Chapter 2 of Part 1 of Division 2 of the
 37 Welfare and Institutions Code with respect to dependency
 38 proceedings.

39 SEC. 3. Section 7666 of the Family Code is amended to read:

1 7666. (a) Except as provided in subdivision (b), notice of the
2 proceeding shall be given to every person identified as the
3 biological father or a possible biological father in accordance with
4 the Code of Civil Procedure for the service of process in a civil
5 action in this state at least 10 days before the date of the
6 proceeding, except that publication or posting of the notice of the
7 proceeding is not required, and service on the parent or guardian
8 of a biological father or possible biological father who is a minor
9 is not required unless the minor has previously provided written
10 authorization to serve his or her parent or guardian. Proof of giving
11 the notice shall be filed with the court before the petition is heard.

12 (b) Notice to a man identified as or alleged to be the biological
13 father shall not be required, and the court shall issue an order
14 dispensing with notice to him, under any of the following
15 circumstances:

16 (1) The relationship to the child has been previously terminated
17 or determined not to exist by a court.

18 (2) The alleged father has executed a written form to waive
19 notice, deny his paternity, relinquish the child for adoption, or
20 consent to the adoption of the child.

21 (3) The whereabouts or identity of the alleged father are
22 unknown or cannot be ascertained.

23 (4) The alleged father has been served with written notice of
24 his alleged paternity and the proposed adoption, and he has failed
25 ~~to bring an action pursuant to subdivision (c) of~~ *file and personally*
26 *serve notice of action pursuant to* Section 7630 within 30 days of
27 service of the notice or the birth of the child, whichever is later.

28 (5) *The child was conceived as a result of an act in violation of*
29 *Section 261 of the Penal Code, and the father was convicted of*
30 *that violation.*

31 SEC. 4. Section 7667 of the Family Code is amended to read:

32 7667. (a) Notwithstanding any other ~~provision of~~ law, an action
33 to terminate the parental rights of an alleged father of a child as
34 specified in this part shall be set for hearing not more than 45 days
35 after filing of the petition, except as provided in subdivision (c).

36 (b) The matter ~~so~~ *that is* set shall have precedence over all other
37 civil matters on the date set for trial, except an action to terminate
38 parental rights pursuant to Part 4 (commencing with Section 7800).

1 (c) (1) The court may dispense with a hearing and issue an ex
2 parte order terminating parental rights if ~~any of the following~~
3 ~~applies:~~

4 (1) ~~The~~ *the* identity or whereabouts of the alleged father are
5 unknown.

6 (2) *The court shall dispense with a hearing and issue an ex*
7 *parte order terminating parental rights in any of the following*
8 *cases:*

9 (A) *The court has dispensed with notice to all possible fathers*
10 *under subdivision (b) of Section 7666.*

11 (2)

12 (B) The alleged father has validly executed a waiver of the right
13 to notice or a denial of paternity.

14 (3)

15 (C) ~~The alleged father has been served with written notice of~~
16 ~~his alleged paternity and the proposed adoption, and he has failed~~
17 ~~to bring an action pursuant to subdivision (c) of~~ *failed to file and*
18 *personally serve notice of action pursuant to Section 7630 within*
19 *30 days of service of the notice or being served with written notice*
20 *of his alleged paternity and the proposed adoption, or within 30*
21 *days of the birth of the child, whichever is later.*

22 SEC. 5. Section 8619 of the Family Code is amended to read:

23 8619. (a) The department shall adopt rules and regulations it
24 determines are reasonably necessary to ensure that the birth parent
25 or parents of Indian ancestry, seeking to relinquish a child for
26 adoption, provide sufficient information to the department, county
27 adoption agency, or licensed adoption agency so that a certificate
28 of degree of Indian blood can be obtained from the Bureau of
29 Indian Affairs. The department shall immediately request a
30 certificate of degree of Indian blood from the Bureau of Indian
31 Affairs upon obtaining the information. A copy of all documents
32 pertaining to the degree of Indian blood and tribal enrollment,
33 including a copy of the certificate of degree of Indian blood, shall
34 become a permanent record in the adoption files and shall be
35 housed in a central location and made available to authorized
36 personnel from the Bureau of Indian Affairs when required to
37 determine the adopted person’s eligibility to receive services or
38 benefits because of the adopted person’s status as an Indian. This
39 information shall be made available to the adopted person upon
40 reaching the age of majority.

1 (b) A parent desiring to relinquish a child to an adoption agency
2 pending determination of whether the child is an Indian child shall
3 do either of the following:

4 (1) Complete the relinquishment procedure for an Indian child
5 as set forth in Section 8606.5 after the agency has provided all
6 notices required by Section 8620.

7 (2) Complete the relinquishment procedure set forth in Section
8 8700 for a non-Indian child, and place a hold on the
9 relinquishment until the agency accepting the relinquishment has
10 confirmed that the child is not an Indian child, at which time the
11 agency shall file the relinquishment with the department. However,
12 if the child is confirmed to be an Indian child, the agency shall
13 void the relinquishment, provide notice to the parent, and inform
14 the parent that if he or she still wishes to relinquish the child, the
15 parties shall comply with all requirements for relinquishment of
16 an Indian child.

17 SEC. 6. Section 9001 of the Family Code is amended to read:

18 ~~9001. (a) Except as provided in Section 9000.5, the probation~~
19 ~~officer, qualified court investigator, licensed clinical social worker,~~
20 ~~licensed marriage family therapist, private licensed adoption~~
21 ~~agency, or, at the option of the board of supervisors, the county~~
22 ~~welfare department in the county in which the adoption proceeding~~
23 ~~is pending shall make an investigation of each case of stepparent~~
24 ~~adoption. The court may not make an order of adoption until after~~
25 ~~the probation officer, qualified court investigator, licensed clinical~~
26 ~~social worker, licensed marriage family therapist, private licensed~~
27 ~~adoption agency, or county welfare department has filed its report~~
28 ~~and recommendation and they have been considered by the court.~~

29 *9001. (a) Except as provided in Section 9000.5, before*
30 *granting or denying a stepparent adoption request, the court shall*
31 *review and consider a written investigative report. The report shall*
32 *include the results of fingerprint clearance or CLETS report for*
33 *the petitioner. The report in a stepparent adoption case shall not*
34 *require a home study unless so ordered by the court upon request*
35 *of an investigator or interested person, or on the court's own*
36 *motion. "Home study" as used in this section means a physical*
37 *investigation of the premises where the child is residing.*

38 *(b) At the time of filing the adoption request, the petitioner shall*
39 *inform the court in writing if the petitioner is electing to have the*
40 *investigation and written report completed by a licensed clinical*

1 *social worker, a licensed marriage and family therapist, or a*
 2 *private licensed adoption agency, in which cases the petitioner*
 3 *shall not be required to pay any investigation fee pursuant to*
 4 *Section 9002 at the time of filing, but shall pay these fees directly*
 5 *to the investigator. Absent that notification, the court may, at the*
 6 *time of filing, collect an investigation fee pursuant to Section 9002,*
 7 *and may assign one of the following to complete the investigation:*
 8 *a probation officer, a qualified court investigator, or the county*
 9 *welfare department, if so authorized by the board of supervisors*
 10 *of the county where the action is pending.*

11 (b)

12 (c) If a private licensed adoption agency conducts the
 13 investigation, it shall assign the investigation to a licensed clinical
 14 social worker or licensed marriage and family therapist associated
 15 with the agency. Any grievance regarding the investigation shall
 16 be directed to the licensing authority of the clinical social worker
 17 or marriage and family therapist, as applicable.

18 ~~(e) Unless ordered by the court, no home study may be required~~
 19 ~~of the petitioner’s home in a stepparent adoption. The agency~~
 20 ~~conducting the investigation or any interested person may request~~
 21 ~~the court to order a home study or the court may order a home~~
 22 ~~study on its own motion.~~

23 ~~(d) “Home study” as used in this section means a physical~~
 24 ~~investigation of the premises where the child is residing.~~

25 (e)

26 (d) Nothing in this section shall be construed to require the State
 27 Department of Social Services to issue regulations for stepparent
 28 adoptions.

29 SEC. 7. Section 305.6 of the Welfare and Institutions Code is
 30 amended to read:

31 305.6. (a) Any peace officer *or child welfare agency worker*
 32 may, without a warrant, take into temporary custody a minor who
 33 is in a hospital if the release of the minor to a prospective adoptive
 34 parent or a representative of a licensed adoption agency poses an
 35 immediate danger to the minor’s health or safety.

36 (b) (1) Notwithstanding subdivision (a) and Section 305, a
 37 peace officer ~~may~~ *or a child welfare agency worker shall not,*
 38 without a warrant, take into temporary custody a minor who is in
 39 a hospital if all of the following conditions ~~exist:~~ *exist at any time*

1 *before the minor's discharge from the hospital or prior to the filing*
2 *of a petition pursuant to Section 300, whichever is later:*

3 (A) ~~The minor is a newborn who tested positive for illegal drugs~~
4 ~~or whose birth mother tested positive for illegal drugs. is or may~~
5 ~~be described by Section 300.~~

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

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

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

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

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

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

36 (D) An attorney or an adoption agency has provided
37 documentation stating that he or she, or the agency, is representing
38 the prospective adoptive parent or parents for purposes of the
39 adoption. In the case of an independent adoption, as defined in
40 Section 8524 of the Family Code, the attorney or adoption agency

1 shall provide documentation stating that the prospective adoptive
2 parent or parents have been informed that the child may be eligible
3 for benefits provided pursuant to the Adoption Assistance Program,
4 as set forth in Chapter 2.1 (commencing with Section 16115) of
5 Part 4 of Division 9, only if, at the time the adoption request is
6 filed, the child has met the requirements to receive federal
7 supplemental security income benefits pursuant to Subchapter XVI
8 (commencing with Section 1381) of Chapter 7 of Title 42 of the
9 United States Code, as determined and documented by the federal
10 Social Security Administration.

11 (E) The prospective adoptive parent or parents or their
12 representative, or an authorized representative of a licensed
13 adoption agency, provides all of the following *within a reasonable*
14 *timeframe* to the peace officer ~~who is at the hospital or child~~
15 *welfare agency worker who seeks* to take the minor into temporary
16 custody:

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

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

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

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

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

37 (IV) The names, identifying information, and contact
38 information for the minor, for each prospective adoptive parent,
39 and for each birth parent, to the extent that information is known.
40 In the case of an agency adoption where no prospective adoptive

1 parent or parents are identified at the time of the minor's release
2 from the hospital, the licensed adoption agency may provide the
3 information as it pertains to the licensed or certified foster home
4 into which the agency intends to place the minor.

5 (c) (1) In every independent adoption proceeding under this
6 section, the prospective adoptive parent or parents shall file with
7 the court either an adoption request within 10 working days after
8 execution of an adoption placement agreement, or a guardianship
9 petition within 30 calendar days after the child's discharge from
10 the hospital, whichever is earlier.

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

23 (d) *Upon request by a parent of the minor newborn, the*
24 *appropriate hospital personnel shall complete a Health Facility*
25 *Minor Release Report and provide copies of the report to all*
26 *parties listed in subparagraph (B) of paragraph (1) of subdivision*
27 *(b). Hospital personnel shall not refuse to complete a Health*
28 *Facility Minor Release Report for any reason, even if the minor*
29 *is ineligible for release at that time.*

30 (e) *Prior to filing a petition under Section 300 regarding a*
31 *minor newborn who has not yet been discharged from the hospital,*
32 *a child welfare agency worker who investigates the safety and*
33 *well-being of the minor newborn shall allow a parent who wishes*
34 *to place the minor newborn for adoption a reasonable opportunity*
35 *to do so, at any time before the minor newborn is discharged from*
36 *the hospital. However, nothing in this section shall be construed*
37 *to prevent a child welfare agency worker from implementing*
38 *measures necessary to ensure the safety and well-being of the*
39 *minor newborn pending adoptive placement, including, but not*
40 *limited to, instructing the hospital not to discharge the minor*

1 newborn from the hospital without approval from child welfare
 2 agency personnel upon satisfaction of the requirements of this
 3 section.

4 ~~(d)~~

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

8 SEC. 8. Section 366.21 of the Welfare and Institutions Code
 9 is amended to read:

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

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

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

1 removed from the physical custody of his or her parent or legal
2 guardian, the social worker shall, at least 10 calendar days prior
3 to the hearing, provide a summary of his or her recommendation
4 for disposition to any foster parents, relative caregivers, and
5 certified foster parents who have been approved for adoption by
6 the State Department of Social Services when it is acting as an
7 adoption agency or by a county adoption agency, community care
8 facility, or foster family agency having the physical custody of the
9 child. The social worker shall include a copy of the Judicial Council
10 Caregiver Information Form (JV-290) with the summary of
11 recommendations to the child's foster parents, relative caregivers,
12 or foster parents approved for adoption, in the caregiver's primary
13 language when available, along with information on how to file
14 the form with the court.

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

35 (e) (1) At the review hearing held six months after the initial
36 dispositional hearing, but no later than 12 months after the date
37 the child entered foster care as determined in Section 361.49,
38 whichever occurs earlier, after considering the admissible and
39 relevant evidence, the court shall order the return of the child to
40 the physical custody of his or her parent or legal guardian unless

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

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

1 that if the child cannot be returned home by the 12-month
2 permanency hearing, a proceeding pursuant to Section 366.26 may
3 be instituted. This section does not apply in a case where, pursuant
4 to Section 361.5, the court has ordered that reunification services
5 shall not be provided.

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

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

1 Section 366.26 within 120 days for some or all of the members of
2 the sibling group.

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

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

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

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

33 (f) (1) The permanency hearing shall be held no later than 12
34 months after the date the child entered foster care, as that date is
35 determined pursuant to Section 361.49. At the permanency hearing,
36 the court shall determine the permanent plan for the child, which
37 shall include a determination of whether the child will be returned
38 to the child's home and, if so, when, within the time limits of
39 subdivision (a) of Section 361.5. After considering the relevant
40 and admissible evidence, the court shall order the return of the

1 child to the physical custody of his or her parent or legal guardian
2 unless the court finds, by a preponderance of the evidence, that
3 the return of the child to his or her parent or legal guardian would
4 create a substantial risk of detriment to the safety, protection, or
5 physical or emotional well-being of the child. The social worker
6 shall have the burden of establishing that detriment.

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

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

29 (C) In making its determination, the court shall review and
30 consider the social worker's report and recommendations and the
31 report and recommendations of any child advocate appointed
32 pursuant to Section 356.5, shall consider the efforts or progress,
33 or both, demonstrated by the parent or legal guardian and the extent
34 to which he or she availed himself or herself of services provided,
35 taking into account the particular barriers to a minor parent or a
36 nonminor dependent parent, or an incarcerated, institutionalized,
37 detained, or deported parent's or legal guardian's access to those
38 court-mandated services and ability to maintain contact with his
39 or her child, and shall make appropriate findings pursuant to
40 subdivision (a) of Section 366.

1 (D) For each youth 16 years of age and older, the court shall
2 also determine whether services have been made available to assist
3 him or her in making the transition from foster care to successful
4 adulthood.

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

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

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

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

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

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

8 For

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

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

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

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

39 (A) The parent or legal guardian has consistently and regularly
40 contacted and visited with the child, taking into account any

1 particular barriers to a parent’s ability to maintain contact with his
2 or her child due to the parent’s arrest and receipt of an immigration
3 hold, detention by the United States Department of Homeland
4 Security, or deportation.

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

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

12 (4) Order that a hearing be held within 120 days, pursuant to
13 Section 366.26, but only if the court does not continue the case to
14 the permanency planning review hearing and there is clear and
15 convincing evidence that reasonable services have been provided
16 or offered to the parents or legal guardians. On and after January
17 1, 2012, a hearing pursuant to Section 366.26 shall not be ordered
18 if the child is a nonminor dependent, unless the nonminor
19 dependent is an Indian child and tribal customary adoption is
20 recommended as the permanent plan.

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

1 nonminor dependent who otherwise is eligible pursuant to Section
2 11403 remain in a planned, permanent living arrangement.

3 (A) The court shall make factual findings identifying any
4 barriers to achieving the permanent plan as of the hearing date.
5 When the child is under 16 years of age, the court shall order a
6 permanent plan of return home, adoption, tribal customary adoption
7 in the case of an Indian child, legal guardianship, or placement
8 with a fit and willing relative, as appropriate. When the child is
9 16 years of age or older, or is a nonminor dependent, and no other
10 permanent plan is appropriate at the time of the hearing, the court
11 may order another planned permanent living arrangement, as
12 described in paragraph (2) of subdivision (i) of Section 16501.

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

20 (C) If the child is not returned to his or her parent or legal
21 guardian, the court shall consider, and state for the record, in-state
22 and out-of-state options for permanent placement. If the child is
23 placed out of the state, the court shall make a determination
24 whether the out-of-state placement continues to be appropriate and
25 in the best interests of the child.

26 (h) In any case in which the court orders that a hearing pursuant
27 to Section 366.26 shall be held, it shall also order the termination
28 of reunification services to the parent or legal guardian. The court
29 shall continue to permit the parent or legal guardian to visit the
30 child pending the hearing unless it finds that visitation would be
31 detrimental to the child. The court shall make any other appropriate
32 orders to enable the child to maintain relationships with individuals,
33 other than the child's siblings, who are important to the child,
34 consistent with the child's best interests. When the court orders a
35 termination of reunification services to the parent or legal guardian,
36 it shall also order that the child's caregiver receive the child's birth
37 certificate in accordance with Sections 16010.4 and 16010.5.
38 Additionally, when the court orders a termination of reunification
39 services to the parent or legal guardian, it shall order, when

1 appropriate, that a child who is 16 years of age or older receive
2 his or her birth certificate.

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

10 (A) Current search efforts for an absent parent or parents or
11 legal guardians.

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

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

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

32 (E) The relationship of the child to any identified prospective
33 adoptive parent or legal guardian, the duration and character of
34 the relationship, the degree of attachment of the child to the
35 prospective relative guardian or adoptive parent, the relative's or
36 adoptive parent's strong commitment to caring permanently for
37 the child, the motivation for seeking adoption or guardianship, a
38 statement from the child concerning placement and the adoption
39 or guardianship, and whether the child, if over 12 years of age,
40 has been consulted about the proposed relative guardianship

1 arrangements, unless the child’s age or physical, emotional, or
2 other condition precludes his or her meaningful response, and if
3 so, a description of the condition.

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

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

10 (H) In the case of an Indian child, in addition to subparagraphs
11 (A) to (G), inclusive, an assessment of the likelihood that the child
12 will be adopted, when, in consultation with the child’s tribe, a
13 tribal customary adoption, as defined in Section 366.24, is
14 recommended. If tribal customary adoption is recommended, the
15 assessment shall 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 (j) 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
4 dismissed, the minor shall be eligible for aid under the Kin-GAP
5 Program, as provided for in Article 4.5 (commencing with Section
6 11360) or Article 4.7 (commencing with Section 11385), as
7 applicable, of Chapter 2 of Part 3 of Division 9.

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

20 (l) For purposes of this section, evidence of any of the following
21 circumstances shall not, in and of itself, be deemed a failure to
22 provide or offer reasonable services:

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

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

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

30 SEC. 9. Section 827 of the Welfare and Institutions Code is
31 amended to read:

32 827. (a) (1) Except as provided in Section 828, a case file
33 may be inspected only by the following:

34 (A) Court personnel.

35 (B) The district attorney, a city attorney, or city prosecutor
36 authorized to prosecute criminal or juvenile cases under state law.

37 (C) The minor who is the subject of the proceeding.

38 (D) The minor’s parents or guardian.

39 (E) The attorneys for the parties, judges, referees, other hearing
40 officers, probation officers, and law enforcement officers who are

1 actively participating in criminal or juvenile proceedings involving
2 the minor.

3 (F) The county counsel, city attorney, or any other attorney
4 representing the petitioning agency in a dependency action.

5 (G) The superintendent or designee of the school district where
6 the minor is enrolled or attending school.

7 (H) Members of the child protective agencies as defined in
8 Section 11165.9 of the Penal Code.

9 (I) The State Department of Social Services, to carry out its
10 duties pursuant to Division 9 (commencing with Section 10000),
11 and Part 5 (commencing with Section 7900) of Division 12, of the
12 Family Code to oversee and monitor county child welfare agencies,
13 children in foster care or receiving foster care assistance, and
14 out-of-state placements, Section 10850.4, and paragraph (2).

15 (J) Authorized legal staff or special investigators who are peace
16 officers who are employed by, or who are authorized
17 representatives of, the State Department of Social Services, as
18 necessary to the performance of their duties to inspect, license,
19 and investigate community care facilities, and to ensure that the
20 standards of care and services provided in those facilities are
21 adequate and appropriate and to ascertain compliance with the
22 rules and regulations to which the facilities are subject. The
23 confidential information shall remain confidential except for
24 purposes of inspection, licensing, or investigation pursuant to
25 Chapter 3 (commencing with Section 1500) and Chapter 3.4
26 (commencing with Section 1596.70) of Division 2 of the Health
27 and Safety Code, or a criminal, civil, or administrative proceeding
28 in relation thereto. The confidential information may be used by
29 the State Department of Social Services in a criminal, civil, or
30 administrative proceeding. The confidential information shall be
31 available only to the judge or hearing officer and to the parties to
32 the case. Names that are confidential shall be listed in attachments
33 separate to the general pleadings. The confidential information
34 shall be sealed after the conclusion of the criminal, civil, or
35 administrative hearings, and may not subsequently be released
36 except in accordance with this subdivision. If the confidential
37 information does not result in a criminal, civil, or administrative
38 proceeding, it shall be sealed after the State Department of Social
39 Services decides that no further action will be taken in the matter
40 of suspected licensing violations. Except as otherwise provided in

1 this subdivision, confidential information in the possession of the
 2 State Department of Social Services may not contain the name of
 3 the minor.

4 (K) Members of children’s multidisciplinary teams, persons, or
 5 agencies providing treatment or supervision of the minor.

6 (L) A judge, commissioner, or other hearing officer assigned
 7 to a family law case with issues concerning custody or visitation,
 8 or both, involving the minor, and the following persons, if actively
 9 participating in the family law case: a family court mediator
 10 assigned to a case involving the minor pursuant to Article 1
 11 (commencing with Section 3160) of Chapter 11 of Part 2 of
 12 Division 8 of the Family Code, a court-appointed evaluator or a
 13 person conducting a court-connected child custody evaluation,
 14 investigation, or assessment pursuant to Section 3111 or 3118 of
 15 the Family Code, and counsel appointed for the minor in the family
 16 law case pursuant to Section 3150 of the Family Code. Prior to
 17 allowing counsel appointed for the minor in the family law case
 18 to inspect the file, the court clerk may require counsel to provide
 19 a certified copy of the court order appointing him or her as the
 20 minor’s counsel.

21 (M) ~~A~~ *When acting within the scope of investigative duties of*
 22 *an active case, a statutorily authorized or court-appointed*
 23 *investigator who is conducting an investigation pursuant to Section*
 24 *7663, 7851, or 9001 of the Family Code, or who is actively*
 25 *participating in a guardianship case involving a minor pursuant to*
 26 *Part 2 (commencing with Section 1500) of Division 4 of the*
 27 *Probate Code and acting within the scope of his or her duties in*
 28 *that case.*

29 (N) A local child support agency for the purpose of establishing
 30 paternity and establishing and enforcing child support orders.

31 (O) Juvenile justice commissions as established under Section
 32 225. The confidentiality provisions of Section 10850 shall apply
 33 to a juvenile justice commission and its members.

34 (P) *A person who has been adjudicated as a de factor parent*
 35 *of the minor.*

36 ~~(P)~~

37 (Q) Any other person who may be designated by court order of
 38 the judge of the juvenile court upon filing a petition.

39 (2) (A) Notwithstanding any other law and subject to
 40 subparagraph (A) of paragraph (3), juvenile case files, except those

1 relating to matters within the jurisdiction of the court pursuant to
2 Section 601 or 602, that pertain to a deceased child who was within
3 the jurisdiction of the juvenile court pursuant to Section 300, shall
4 be released to the public pursuant to an order by the juvenile court
5 after a petition has been filed and interested parties have been
6 afforded an opportunity to file an objection. Any information
7 relating to another child or which could identify another child,
8 except for information about the deceased, shall be redacted from
9 the juvenile case file prior to release, unless a specific order is
10 made by the juvenile court to the contrary. Except as provided in
11 this paragraph, the presiding judge of the juvenile court may issue
12 an order prohibiting or limiting access to the juvenile case file, or
13 any portion thereof, of a deceased child only upon a showing by
14 a preponderance of evidence that release of the juvenile case file
15 or any portion thereof is detrimental to the safety, protection, or
16 physical or emotional well-being of another child who is directly
17 or indirectly connected to the juvenile case that is the subject of
18 the petition.

19 (B) This paragraph represents a presumption in favor of the
20 release of documents when a child is deceased unless the statutory
21 reasons for confidentiality are shown to exist.

22 (C) If a child whose records are sought has died, and documents
23 are sought pursuant to this paragraph, no weighing or balancing
24 of the interests of those other than a child is permitted.

25 (D) A petition filed under this paragraph shall be served on
26 interested parties by the petitioner, if the petitioner is in possession
27 of their identity and address, and on the custodian of records. Upon
28 receiving a petition, the custodian of records shall serve a copy of
29 the request upon all interested parties that have not been served
30 by the petitioner or on the interested parties served by the petitioner
31 if the custodian of records possesses information, such as a more
32 recent address, indicating that the service by the petitioner may
33 have been ineffective.

34 (E) The custodian of records shall serve the petition within 10
35 calendar days of receipt. If any interested party, including the
36 custodian of records, objects to the petition, the party shall file and
37 serve the objection on the petitioning party no later than 15
38 calendar days of service of the petition.

39 (F) The petitioning party shall have 10 calendar days to file any
40 reply. The juvenile court shall set the matter for hearing no more

1 than 60 calendar days from the date the petition is served on the
2 custodian of records. The court shall render its decision within 30
3 days of the hearing. The matter shall be decided solely upon the
4 basis of the petition and supporting exhibits and declarations, if
5 any, the objection and any supporting exhibits or declarations, if
6 any, and the reply and any supporting declarations or exhibits
7 thereto, and argument at hearing. The court may solely upon its
8 own motion order the appearance of witnesses. If no objection is
9 filed to the petition, the court shall review the petition and issue
10 its decision within 10 calendar days of the final day for filing the
11 objection. Any order of the court shall be immediately reviewable
12 by petition to the appellate court for the issuance of an
13 extraordinary writ.

14 (3) Access to juvenile case files pertaining to matters within the
15 jurisdiction of the juvenile court pursuant to Section 300 shall be
16 limited as follows:

17 (A) If a juvenile case file, or any portion thereof, is privileged
18 or confidential pursuant to any other state law or federal law or
19 regulation, the requirements of that state law or federal law or
20 regulation prohibiting or limiting release of the juvenile case file
21 or any portions thereof shall prevail. Unless a person is listed in
22 subparagraphs (A) to (O), inclusive, of paragraph (1) and is entitled
23 to access under the other state law or federal law or regulation
24 without a court order, all those seeking access, pursuant to other
25 authorization, to portions of, or information relating to the contents
26 of, juvenile case files protected under another state law or federal
27 law or regulation, shall petition the juvenile court. The juvenile
28 court may only release the portion of, or information relating to
29 the contents of, juvenile case files protected by another state law
30 or federal law or regulation if disclosure is not detrimental to the
31 safety, protection, or physical or emotional well-being of a child
32 who is directly or indirectly connected to the juvenile case that is
33 the subject of the petition. This paragraph shall not be construed
34 to limit the ability of the juvenile court to carry out its duties in
35 conducting juvenile court proceedings.

36 (B) Prior to the release of the juvenile case file or any portion
37 thereof, the court shall afford due process, including a notice of
38 and an opportunity to file an objection to the release of the record
39 or report to all interested parties.

1 (4) A juvenile case file, any portion thereof, and information
2 relating to the content of the juvenile case file, may not be
3 disseminated by the receiving agencies to any persons or agencies,
4 other than those persons or agencies authorized to receive
5 documents pursuant to this section. Further, a juvenile case file,
6 any portion thereof, and information relating to the content of the
7 juvenile case file, may not be made as an attachment to any other
8 documents without the prior approval of the presiding judge of the
9 juvenile court, unless it is used in connection with and in the course
10 of a criminal investigation or a proceeding brought to declare a
11 person a dependent child or ward of the juvenile court.

12 (5) Individuals listed in subparagraphs (A), (B), (C), (D), (E),
13 (F), (H), and (I) of paragraph (1) may also receive copies of the
14 case file. In these circumstances, the requirements of paragraph
15 (4) shall continue to apply to the information received.

16 (b) (1) While the Legislature reaffirms its belief that juvenile
17 court records, in general, should be confidential, it is the intent of
18 the Legislature in enacting this subdivision to provide for a limited
19 exception to juvenile court record confidentiality to promote more
20 effective communication among juvenile courts, family courts,
21 law enforcement agencies, and schools to ensure the rehabilitation
22 of juvenile criminal offenders as well as to lessen the potential for
23 drug use, violence, other forms of delinquency, and child abuse.

24 (2) (A) Notwithstanding subdivision (a), written notice that a
25 minor enrolled in a public school, kindergarten to grade 12,
26 inclusive, has been found by a court of competent jurisdiction to
27 have committed any felony or any misdemeanor involving curfew,
28 gambling, alcohol, drugs, tobacco products, carrying of weapons,
29 a sex offense listed in Section 290 of the Penal Code, assault or
30 battery, larceny, vandalism, or graffiti shall be provided by the
31 court, within seven days, to the superintendent of the school district
32 of attendance. Written notice shall include only the offense found
33 to have been committed by the minor and the disposition of the
34 minor's case. This notice shall be expeditiously transmitted by the
35 district superintendent to the principal at the school of attendance.
36 The principal shall expeditiously disseminate the information to
37 those counselors directly supervising or reporting on the behavior
38 or progress of the minor. In addition, the principal shall disseminate
39 the information to any teacher or administrator directly supervising
40 or reporting on the behavior or progress of the minor whom the

1 principal believes needs the information to work with the pupil in
2 an appropriate fashion, to avoid being needlessly vulnerable or to
3 protect other persons from needless vulnerability.

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5 (B) Any information received by a teacher, counselor, or
6 administrator under this subdivision shall be received in confidence
7 for the limited purpose of rehabilitating the minor and protecting
8 students and staff, and shall not be further disseminated by the
9 teacher, counselor, or administrator, except insofar as
10 communication with the juvenile, his or her parents or guardians,
11 law enforcement personnel, and the juvenile’s probation officer
12 is necessary to effectuate the juvenile’s rehabilitation or to protect
13 students and staff.

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15 (C) An intentional violation of the confidentiality provisions of
16 this paragraph is a misdemeanor punishable by a fine not to exceed
17 five hundred dollars (\$500).

18 (3) If a minor is removed from public school as a result of the
19 court’s finding described in subdivision (b), the superintendent
20 shall maintain the information in a confidential file and shall defer
21 transmittal of the information received from the court until the
22 minor is returned to public school. If the minor is returned to a
23 school district other than the one from which the minor came, the
24 parole or probation officer having jurisdiction over the minor shall
25 so notify the superintendent of the last district of attendance, who
26 shall transmit the notice received from the court to the
27 superintendent of the new district of attendance.

28 (c) Each probation report filed with the court concerning a minor
29 whose record is subject to dissemination pursuant to subdivision
30 (b) shall include on the face sheet the school at which the minor
31 is currently enrolled. The county superintendent shall provide the
32 court with a listing of all of the schools within each school district,
33 within the county, along with the name and mailing address of
34 each district superintendent.

35 (d) (1) Each notice sent by the court pursuant to subdivision
36 (b) shall be stamped with the instruction: “Unlawful Dissemination
37 Of This Information Is A Misdemeanor.” Any information received
38 from the court shall be kept in a separate confidential file at the
39 school of attendance and shall be transferred to the minor’s
40 subsequent schools of attendance and maintained until the minor

1 graduates from high school, is released from juvenile court
2 jurisdiction, or reaches the age of 18 years, whichever occurs first.
3 After that time the confidential record shall be destroyed. At any
4 time after the date by which a record required to be destroyed by
5 this section should have been destroyed, the minor or his or her
6 parent or guardian shall have the right to make a written request
7 to the principal of the school that the minor's school records be
8 reviewed to ensure that the record has been destroyed. Upon
9 completion of any requested review and no later than 30 days after
10 the request for the review was received, the principal or his or her
11 designee shall respond in writing to the written request and either
12 shall confirm that the record has been destroyed or, if the record
13 has not been destroyed, shall explain why destruction has not yet
14 occurred.

15 (2) Except as provided in paragraph (2) of subdivision (b), no
16 liability shall attach to any person who transmits or fails to transmit
17 any notice or information required under subdivision (b).

18 (e) For purposes of this section, a "juvenile case file" means a
19 petition filed in any juvenile court proceeding, reports of the
20 probation officer, and all other documents filed in that case or
21 made available to the probation officer in making his or her report,
22 or to the judge, referee, or other hearing officer, and thereafter
23 retained by the probation officer, judge, referee, or other hearing
24 officer.

25 (f) The persons described in subparagraphs (A), (E), (F), (H),
26 (K), (L), (M), and (N) of paragraph (1) of subdivision (a) include
27 persons serving in a similar capacity for an Indian tribe, reservation,
28 or tribal court when the case file involves a child who is a member
29 of, or who is eligible for membership in, that tribe.

30 SEC. 10. If the Commission on State Mandates determines
31 that this act contains costs mandated by the state, reimbursement
32 to local agencies and school districts for those costs shall be made
33 pursuant to Part 7 (commencing with Section 17500) of Division
34 4 of Title 2 of the Government Code.

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