

**Introduced by Senator Liu**

January 8, 2015

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An act to amend Sections 361.5, 366.21, and 366.22 of the Welfare and Institutions Code, relating to juveniles.

**LEGISLATIVE COUNSEL'S DIGEST**

SB 68, as introduced, Liu. Minor parents: reunification services.

(1) Existing law establishes the jurisdiction of the juvenile court, which may adjudge children to be dependents of the court under certain circumstances, including when the child suffered or there is a substantial risk that the child will suffer serious physical harm, or a parent fails to provide the child with adequate food, clothing, shelter, or medical treatment. Existing law establishes the grounds for removal of a dependent child from the custody of his or her parents or guardian, and establishes procedures to determine temporary placement of a dependent child. Existing law prescribes various hearings, including specified review hearings, and other procedures for these purposes. Existing law generally requires the court to order the social worker to provide designated child welfare services, including family reunification services, to the child and the child's mother and statutorily presumed father or guardians. Existing law does not require the provision of family reunification services in cases in which the court has made one or more specified findings regarding the qualifications of the parent or guardian. Existing law prohibits the court from ordering reunification for a parent or guardian described under specified provisions, unless the court finds, by clear and convincing evidence, that reunification is in the best interest of the child.

This bill would instead require the court to order reunification services for a parent described under those provisions if the parent was a minor

at the time when the facts that gave rise to the condition for the court to deny reunification services occurred. Because providing reunification services imposes additional duties on social workers and other county employees, the bill would impose a state-mandated local program.

(2) When a court orders the removal of a child from the physical custody of his or her parent, existing law generally requires the court to order the return of the child to the physical custody of his or her parent at the review hearings held 6 months, 12 months, and 18 months, respectively, after the initial disposition hearing, unless the court finds that the return of the child would create a substantial risk of detriment, or substantial danger, to the safety, protection, or physical or emotional well-being of the child. In making this determination, existing law requires the court to consider the efforts or progress, or both, demonstrated by the parent and the extent to which he or she availed himself or herself of reunification services, taking into account the particular barriers to an incarcerated, institutionalized, detained, or deported parent's or guardian's access to those court-mandated reunification services and ability to maintain contact with his or her child.

This bill would require the court, in making its determination at those review hearings, to take into account the particular barriers to a minor parent.

(3) If a child is not returned to a parent or legal guardian at the 18-month permanency review hearing and the court determines by clear and convincing evidence that the best interests of the child would be met by the provision of additional reunification services to the parent or legal guardian, as specified, existing law authorizes the court to continue the case for up to 6 months for a subsequent permanency review hearing, as specified.

This bill would authorize the court to continue the case for up to 6 months for the provision of additional reunification services to a minor parent at the initial hearing making significant and consistent progress in establishing a safe home for the child's return and a subsequent permanency review hearing.

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 361.5 of the Welfare and Institutions  
2 Code is amended to read:

3 361.5. (a) Except as provided in subdivision (b), or when the  
4 parent has voluntarily relinquished the child and the relinquishment  
5 has been filed with the State Department of Social Services, or  
6 upon the establishment of an order of guardianship pursuant to  
7 Section 360, or when a court adjudicates a petition under Section  
8 329 to modify the court's jurisdiction from delinquency jurisdiction  
9 to dependency jurisdiction pursuant to subparagraph (A) of  
10 paragraph (2) of subdivision (b) of Section 607.2 and the parents  
11 or guardian of the ward have had reunification services terminated  
12 under the delinquency jurisdiction, whenever a child is removed  
13 from a parent's or guardian's custody, the juvenile court shall order  
14 the social worker to provide child welfare services to the child and  
15 the child's mother and statutorily presumed father or guardians.  
16 Upon a finding and declaration of paternity by the juvenile court  
17 or proof of a prior declaration of paternity by any court of  
18 competent jurisdiction, the juvenile court may order services for  
19 the child and the biological father, if the court determines that the  
20 services will benefit the child.

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

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

30 (B) For a child who, on the date of initial removal from the  
31 physical custody of his or her parent or guardian, was under three  
32 years of age, court-ordered services shall be provided for a period  
33 of six months from the dispositional hearing as provided in

subdivision (e) of Section 366.21, but no longer than 12 months from the date the child entered foster care as provided in Section 361.49 unless the child is returned to the home of the parent or guardian.

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

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

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

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

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

(3) Notwithstanding subparagraphs (A), (B), and (C) of paragraph (1), court-ordered services may be extended up to a maximum time period not to exceed 18 months after the date the child was originally removed from physical custody of his or her parent or guardian if it can be shown, at the hearing held pursuant to subdivision (f) of Section 366.21, that the permanent plan for the child is that he or she will be returned and safely maintained in the home within the extended time period. The court shall extend the time period only if it finds that there is a substantial probability that the child will be returned to the physical custody of his or her parent or guardian within the extended time period or that

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

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

37 In cases where the child was under three years of age on the date  
38 of the initial removal from the physical custody of his or her parent  
39 or guardian or is a member of a sibling group as described in  
40 subparagraph (C) of paragraph (1), the court shall inform the parent

1 or guardian that the failure of the parent or guardian to participate  
2 regularly in any court-ordered treatment programs or to cooperate  
3 or avail himself or herself of services provided as part of the child  
4 welfare services case plan may result in a termination of efforts  
5 to reunify the family after six months. The court shall inform the  
6 parent or guardian of the factors used in subdivision (e) of Section  
7 366.21 to determine whether to limit services to six months for  
8 some or all members of a sibling group as described in  
9 subparagraph (C) of paragraph (1).

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

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

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

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

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

13 (2) That the parent or guardian is suffering from a mental  
14 disability that is described in Chapter 2 (commencing with Section  
15 7820) of Part 4 of Division 12 of the Family Code and that renders  
16 him or her incapable of utilizing those services.

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

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

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

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

38 A finding of severe sexual abuse, for the purposes of this  
39 subdivision, may be based on, but is not limited to, sexual  
40 intercourse, or stimulation involving genital-genital, oral-genital,

1 anal-genital, or oral-anal contact, whether between the parent or  
2 guardian and the child or a sibling or half sibling of the child, or  
3 between the child or a sibling or half sibling of the child and  
4 another person or animal with the actual or implied consent of the  
5 parent or guardian; or the penetration or manipulation of the  
6 child's, sibling's, or half sibling's genital organs or rectum by any  
7 animate or inanimate object for the sexual gratification of the  
8 parent or guardian, or for the sexual gratification of another person  
9 with the actual or implied consent of the parent or guardian.

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

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

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

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



1 (10) That the court ordered termination of reunification services  
2 for any siblings or half siblings of the child because the parent or  
3 guardian failed to reunify with the sibling or half sibling after the  
4 sibling or half sibling had been removed from that parent or  
5 guardian pursuant to Section 361 and that parent or guardian is  
6 the same parent or guardian described in subdivision (a) and that,  
7 according to the findings of the court, this parent or guardian has  
8 not subsequently made a reasonable effort to treat the problems  
9 that led to removal of the sibling or half sibling of that child from  
10 that parent or guardian.

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

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

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

29 (14) That the parent or guardian of the child has advised the  
30 court that he or she is not interested in receiving family  
31 maintenance or family reunification services or having the child  
32 returned to or placed in his or her custody and does not wish to  
33 receive family maintenance or reunification services.

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

1 guardian has knowingly and intelligently waived the right to  
2 services.

3 (15) That the parent or guardian has on one or more occasions  
4 willfully abducted the child or child's sibling or half sibling from  
5 his or her placement and refused to disclose the child's or child's  
6 sibling's or half sibling's whereabouts, refused to return physical  
7 custody of the child or child's sibling or half sibling to his or her  
8 placement, or refused to return physical custody of the child or  
9 child's sibling or half sibling to the social worker.

10 (16) That the parent or guardian has been required by the court  
11 to be registered on a sex offender registry under the federal Adam  
12 Walsh Child Protection and Safety Act of 2006 (42 U.S.C. Sec.  
13 16913(a)), as required in Section 106(b)(2)(B)(xvi)(VI) of the  
14 Child Abuse Prevention and Treatment Act of 2006 (42 U.S.C.  
15 Sec. 5106a(a)(2)(B)(xvi)(VI)).

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

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27 (2) *The* court shall not order reunification for a parent or  
28 guardian described in paragraph (3), (4), (6), (7), (8), (9), (10),  
29 (11), (12), (13), (14), (15), or (16) of subdivision (b) unless the  
30 court finds, by clear and convincing evidence, that reunification  
31 is in the best interest of the child.

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

1 that indicate that reunification is likely to be successful or  
2 unsuccessful and whether failure to order reunification is likely to  
3 be detrimental to the child.

4 *(4) Notwithstanding paragraph (2) or (3), the court shall order*  
5 *reunification services for a parent described in paragraph (1), (2),*  
6 *(3), (4), (5), (6), (7), (8), (9), (10), (11), (12), (13), (14), (15), or*  
7 *(16) of subdivision (b) if the parent was a minor at the time when*  
8 *the facts that gave rise to the condition for the court to deny*  
9 *reunification services occurred.*

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

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

27 (e) (1) If the parent or guardian is incarcerated, institutionalized,  
28 or detained by the United States Department of Homeland Security,  
29 or has been deported to his or her country of origin, the court shall  
30 order reasonable services unless the court determines, by clear and  
31 convincing evidence, those services would be detrimental to the  
32 child. In determining detriment, the court shall consider the age  
33 of the child, the degree of parent-child bonding, the length of the  
34 sentence, the length and nature of the treatment, the nature of the  
35 crime or illness, the degree of detriment to the child if services are  
36 not offered and, for children 10 years of age or older, the child's  
37 attitude toward the implementation of family reunification services,  
38 the likelihood of the parent's discharge from incarceration,  
39 institutionalization, or detention within the reunification time  
40 limitations described in subdivision (a), and any other appropriate

1 factors. In determining the content of reasonable services, the court  
2 shall consider the particular barriers to an incarcerated,  
3 institutionalized, detained, or deported parent's access to those  
4 court-mandated services and ability to maintain contact with his  
5 or her child, and shall document this information in the child's  
6 case plan. Reunification services are subject to the applicable time  
7 limitations imposed in subdivision (a). Services may include, but  
8 shall not be limited to, all of the following:

9 (A) Maintaining contact between the parent and child through  
10 collect telephone calls.

11 (B) Transportation services, where appropriate.

12 (C) Visitation services, where appropriate.

13 (D) Reasonable services to extended family members or foster  
14 parents providing care for the child if the services are not  
15 detrimental to the child.

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

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

31 (2) The presiding judge of the juvenile court of each county  
32 may convene representatives of the county welfare department,  
33 the sheriff's department, and other appropriate entities for the  
34 purpose of developing and entering into protocols for ensuring the  
35 notification, transportation, and presence of an incarcerated or  
36 institutionalized parent at all court hearings involving proceedings  
37 affecting the child pursuant to Section 2625 of the Penal Code.  
38 The county welfare department shall utilize the prisoner locator  
39 system developed by the Department of Corrections and

1 Rehabilitation to facilitate timely and effective notice of hearings  
2 for incarcerated parents.

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

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

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

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

38 (B) A review of the amount of and nature of any contact between  
39 the child and his or her parents and other members of his or her  
40 extended family since the time of placement. Although the

1 extended family of each child shall be reviewed on a case-by-case  
2 basis, “extended family” for the purpose of this subparagraph shall  
3 include, but not be limited to, the child’s siblings, grandparents,  
4 aunts, and uncles.

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

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

29 (E) The relationship of the child to any identified prospective  
30 adoptive parent or guardian, including a prospective tribal  
31 customary parent, the duration and character of the relationship,  
32 the degree of attachment of the child to the prospective relative  
33 guardian or adoptive parent, the relative’s or adoptive parent’s  
34 strong commitment to caring permanently for the child, the  
35 motivation for seeking adoption or guardianship, a statement from  
36 the child concerning placement and the adoption or guardianship,  
37 and whether the child over 12 years of age has been consulted  
38 about the proposed relative guardianship arrangements, unless the  
39 child’s age or physical, emotional, or other condition precludes

1 his or her meaningful response, and if so, a description of the  
2 condition.

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

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

11 (i) Whether tribal customary adoption would or would not be  
12 detrimental to the Indian child and the reasons for reaching that  
13 conclusion.

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

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

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

36 (h) If, at any hearing held pursuant to Section 366.26, a  
37 guardianship is established for the minor with an approved relative  
38 caregiver and juvenile court dependency is subsequently dismissed,  
39 the minor shall be eligible for aid under the Kin-GAP Program as  
40 provided for in Article 4.5 (commencing with Section 11360) or

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

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

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

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

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

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

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

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

21 (j) When the court determines that reunification services will  
22 not be ordered, it shall order that the child's caregiver receive the  
23 child's birth certificate in accordance with Sections 16010.4 and  
24 16010.5. Additionally, when the court determines that reunification  
25 services will not be ordered, it shall order, when appropriate, that  
26 a child who is 16 years of age or older receive his or her birth  
27 certificate.

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

34 SEC. 2. Section 366.21 of the Welfare and Institutions Code,  
35 as amended by Section 6 of Chapter 219 of the Statutes of 2014,  
36 is amended to read:

37 366.21. (a) Every hearing conducted by the juvenile court  
38 reviewing the status of a dependent child shall be placed on the  
39 appearance calendar. The court shall advise all persons present at



1 the hearing of the date of the future hearing and of their right to  
2 be present and represented by counsel.

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

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

1 language when available, along with information on how to file  
2 the form with the court.

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

23 (e) At the review hearing held six months after the initial  
24 dispositional hearing, but no later than 12 months after the date  
25 the child entered foster care as determined in Section 361.49,  
26 whichever occurs earlier, after considering the admissible and  
27 relevant evidence, the court shall order the return of the child to  
28 the physical custody of his or her parent or legal guardian unless  
29 the court finds, by a preponderance of the evidence, that the return  
30 of the child to his or her parent or legal guardian would create a  
31 substantial risk of detriment to the safety, protection, or physical  
32 or emotional well-being of the child. The social worker shall have  
33 the burden of establishing that detriment. At the hearing, the court  
34 shall consider the criminal history, obtained pursuant to paragraph  
35 (1) of subdivision (f) of Section 16504.5, of the parent or legal  
36 guardian subsequent to the child's removal to the extent that the  
37 criminal record is substantially related to the welfare of the child  
38 or the parent's or guardian's ability to exercise custody and control  
39 regarding his or her child, provided the parent or legal guardian  
40 agreed to submit fingerprint images to obtain criminal history

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

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

34 If the child was under three years of age on the date of the initial  
35 removal, or is a member of a sibling group described in  
36 subparagraph (C) of paragraph (1) of subdivision (a) of Section  
37 361.5, and the court finds by clear and convincing evidence that  
38 the parent failed to participate regularly and make substantive  
39 progress in a court-ordered treatment plan, the court may schedule  
40 a hearing pursuant to Section 366.26 within 120 days. If, however,

1 the court finds there is a substantial probability that the child, who  
2 was under three years of age on the date of initial removal or is a  
3 member of a sibling group described in subparagraph (C) of  
4 paragraph (1) of subdivision (a) of Section 361.5, may be returned  
5 to his or her parent or legal guardian within six months or that  
6 reasonable services have not been provided, the court shall continue  
7 the case to the 12-month permanency hearing.

8 For the purpose of placing and maintaining a sibling group  
9 together in a permanent home, the court, in making its  
10 determination to schedule a hearing pursuant to Section 366.26  
11 for some or all members of a sibling group, as described in  
12 subparagraph (C) of paragraph (1) of subdivision (a) of Section  
13 361.5, shall review and consider the social worker's report and  
14 recommendations. Factors the report shall address, and the court  
15 shall consider, may include, but need not be limited to, whether  
16 the sibling group was removed from parental care as a group, the  
17 closeness and strength of the sibling bond, the ages of the siblings,  
18 the appropriateness of maintaining the sibling group together, the  
19 detriment to the child if sibling ties are not maintained, the  
20 likelihood of finding a permanent home for the sibling group,  
21 whether the sibling group is currently placed together in a  
22 preadoptive home or has a concurrent plan goal of legal  
23 permanency in the same home, the wishes of each child whose  
24 age and physical and emotional condition permits a meaningful  
25 response, and the best interests of each child in the sibling group.  
26 The court shall specify the factual basis for its finding that it is in  
27 the best interests of each child to schedule a hearing pursuant to  
28 Section 366.26 within 120 days for some or all of the members of  
29 the sibling group.

30 If the child was removed initially under subdivision (g) of  
31 Section 300 and the court finds by clear and convincing evidence  
32 that the whereabouts of the parent are still unknown, or the parent  
33 has failed to contact and visit the child, the court may schedule a  
34 hearing pursuant to Section 366.26 within 120 days. The court  
35 shall take into account any particular barriers to a parent's ability  
36 to maintain contact with his or her child due to the parent's  
37 incarceration, institutionalization, detention by the United States  
38 Department of Homeland Security, or deportation. If the court  
39 finds by clear and convincing evidence that the parent has been

1 convicted of a felony indicating parental unfitness, the court may  
2 schedule a hearing pursuant to Section 366.26 within 120 days.

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

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

14 If the child is not returned to his or her parent or legal guardian,  
15 the court shall determine whether reasonable services that were  
16 designed to aid the parent or legal guardian in overcoming the  
17 problems that led to the initial removal and the continued custody  
18 of the child have been provided or offered to the parent or legal  
19 guardian. The court shall order that those services be initiated,  
20 continued, or terminated.

21 (f) The permanency hearing shall be held no later than 12  
22 months after the date the child entered foster care, as that date is  
23 determined pursuant to Section 361.49. At the permanency hearing,  
24 the court shall determine the permanent plan for the child, which  
25 shall include a determination of whether the child will be returned  
26 to the child's home and, if so, when, within the time limits of  
27 subdivision (a) of Section 361.5. After considering the relevant  
28 and admissible evidence, the court shall order the return of the  
29 child to the physical custody of his or her parent or legal guardian  
30 unless the court finds, by a preponderance of the evidence, that  
31 the return of the child to his or her parent or legal guardian would  
32 create a substantial risk of detriment to the safety, protection, or  
33 physical or emotional well-being of the child. The social worker  
34 shall have the burden of establishing that detriment. At the  
35 permanency hearing, the court shall consider the criminal history,  
36 obtained pursuant to paragraph (1) of subdivision (f) of Section  
37 16504.5, of the parent or legal guardian subsequent to the child's  
38 removal to the extent that the criminal record is substantially related  
39 to the welfare of the child or the parent's or legal guardian's ability  
40 to exercise custody and control regarding his or her child, provided

1 that the parent or legal guardian agreed to submit fingerprint images  
2 to obtain criminal history information as part of the case plan. The  
3 court shall also determine whether reasonable services that were  
4 designed to aid the parent or legal guardian to overcome the  
5 problems that led to the initial removal and continued custody of  
6 the child have been provided or offered to the parent or legal  
7 guardian. For each youth 16 years of age and older, the court shall  
8 also determine whether services have been made available to assist  
9 him or her in making the transition from foster care to independent  
10 living. The court shall also consider whether the child can be  
11 returned to the custody of his or her parent who is enrolled in a  
12 certified substance abuse treatment facility that allows a dependent  
13 child to reside with his or her parent. The fact that the parent is  
14 enrolled in a certified substance abuse treatment facility shall not  
15 be, for that reason alone, prima facie evidence of detriment. The  
16 failure of the parent or legal guardian to participate regularly and  
17 make substantive progress in court-ordered treatment programs  
18 shall be prima facie evidence that return would be detrimental. In  
19 making its determination, the court shall review and consider the  
20 social worker's report and recommendations and the report and  
21 recommendations of any child advocate appointed pursuant to  
22 Section 356.5, shall consider the efforts or progress, or both,  
23 demonstrated by the parent or legal guardian and the extent to  
24 which he or she availed himself or herself of services provided,  
25 taking into account the particular barriers to *a minor parent* or an  
26 incarcerated, institutionalized, detained, or deported parent's or  
27 legal guardian's access, to those court-mandated services and  
28 ability to maintain contact with his or her child, and shall make  
29 appropriate findings pursuant to subdivision (a) of Section 366.

30 Regardless of whether the child is returned to his or her parent  
31 or legal guardian, the court shall specify the factual basis for its  
32 decision. If the child is not returned to a parent or legal guardian,  
33 the court shall specify the factual basis for its conclusion that the  
34 return would be detrimental. The court also shall make a finding  
35 pursuant to subdivision (a) of Section 366. If the child is not  
36 returned to his or her parent or legal guardian, the court shall  
37 consider, and state for the record, in-state and out-of-state  
38 placement options. If the child is placed out of the state, the court  
39 shall make a determination whether the out-of-state placement  
40 continues to be appropriate and in the best interests of the child.

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

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

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

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

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

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

The court shall inform the parent or legal guardian that if the child cannot be returned home by the next permanency review hearing, a proceeding pursuant to Section 366.26 may be instituted. The court shall not order that a hearing pursuant to Section 366.26

1 be held unless there is clear and convincing evidence that  
2 reasonable services have been provided or offered to the parent or  
3 legal guardian.

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

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

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

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

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

34 (4) Order that a hearing be held within 120 days, pursuant to  
35 Section 366.26, but only if the court does not continue the case to  
36 the permanency planning review hearing and there is clear and  
37 convincing evidence that reasonable services have been provided  
38 or offered to the parents or legal guardians. On and after January  
39 1, 2012, a hearing pursuant to Section 366.26 shall not be ordered  
40 if the child is a nonminor dependent, unless the nonminor



1 dependent is an Indian child and tribal customary adoption is  
2 recommended as the permanent plan.

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

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

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

37 (h) In any case in which the court orders that a hearing pursuant  
38 to Section 366.26 shall be held, it shall also order the termination  
39 of reunification services to the parent or legal guardian. The court  
40 shall continue to permit the parent or legal guardian to visit the

1 child pending the hearing unless it finds that visitation would be  
2 detrimental to the child. The court shall make any other appropriate  
3 orders to enable the child to maintain relationships with individuals,  
4 other than the child's siblings, who are important to the child,  
5 consistent with the child's best interests. When the court orders a  
6 termination of reunification services to the parent or legal guardian,  
7 it shall also order that the child's caregiver receive the child's birth  
8 certificate in accordance with Sections 16010.4 and 16010.5.  
9 Additionally, when the court orders a termination of reunification  
10 services to the parent or legal guardian, it shall order, when  
11 appropriate, that a child who is 16 years of age or older receive  
12 his or her birth certificate.

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

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

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

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

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

1 limited to, all of the factors specified in subdivision (a) of Section  
2 361.3 and in Section 361.4.

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

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

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

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

27 (i) Whether tribal customary adoption would or would not be  
28 detrimental to the Indian child and the reasons for reaching that  
29 conclusion.

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

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

39 (B) Regardless of his or her immigration status, a relative  
40 caregiver shall be given information regarding the permanency

options of guardianship and adoption, including the long-term benefits and consequences of each option, prior to establishing legal guardianship or pursuing adoption. If the proposed permanent plan is guardianship with an approved relative caregiver for a minor eligible for aid under the Kin-GAP Program, as provided for in Article 4.7 (commencing with Section 11385) of Chapter 2 of Part 3 of Division 9, the relative caregiver shall be informed about the terms and conditions of the negotiated agreement pursuant to Section 11387 and shall agree to its execution prior to the hearing held pursuant to Section 366.26. A copy of the executed negotiated agreement shall be attached to the assessment.

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

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

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

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

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

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

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

5 SEC. 3. Section 366.22 of the Welfare and Institutions Code,  
6 as amended by Section 7 of Chapter 219 of the Statutes of 2014,  
7 is amended to read:

8 366.22. (a) When a case has been continued pursuant to  
9 paragraph (1) or (2) of subdivision (g) of Section 366.21, the  
10 permanency review hearing shall occur within 18 months after the  
11 date the child was originally removed from the physical custody  
12 of his or her parent or legal guardian. After considering the  
13 admissible and relevant evidence, the court shall order the return  
14 of the child to the physical custody of his or her parent or legal  
15 guardian unless the court finds, by a preponderance of the evidence,  
16 that the return of the child to his or her parent or legal guardian  
17 would create a substantial risk of detriment to the safety, protection,  
18 or physical or emotional well-being of the child. The social worker  
19 shall have the burden of establishing that detriment. At the  
20 permanency review hearing, the court shall consider the criminal  
21 history, obtained pursuant to paragraph (1) of subdivision (f) of  
22 Section 16504.5, of the parent or legal guardian subsequent to the  
23 child's removal, to the extent that the criminal record is  
24 substantially related to the welfare of the child or the parent's or  
25 legal guardian's ability to exercise custody and control regarding  
26 his or her child, provided that the parent or legal guardian agreed  
27 to submit fingerprint images to obtain criminal history information  
28 as part of the case plan. The court shall also consider whether the  
29 child can be returned to the custody of his or her parent who is  
30 enrolled in a certified substance abuse treatment facility that allows  
31 a dependent child to reside with his or her parent. The fact that the  
32 parent is enrolled in a certified substance abuse treatment facility  
33 shall not be, for that reason alone, prima facie evidence of  
34 detriment. The failure of the parent or legal guardian to participate  
35 regularly and make substantive progress in court-ordered treatment  
36 programs shall be prima facie evidence that return would be  
37 detrimental. In making its determination, the court shall review  
38 and consider the social worker's report and recommendations and  
39 the report and recommendations of any child advocate appointed  
40 pursuant to Section 356.5; shall consider the efforts or progress,

1 or both, demonstrated by the parent or legal guardian and the extent  
2 to which he or she availed himself or herself of services provided,  
3 taking into account the particular barriers of *a minor parent or* an  
4 incarcerated or institutionalized parent's or legal guardian's access  
5 to those court-mandated services and ability to maintain contact  
6 with his or her child; and shall make appropriate findings pursuant  
7 to subdivision (a) of Section 366.

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

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

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

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

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

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

27 (b) If the child is not returned to a parent or legal guardian at  
 28 the permanency review hearing and the court determines by clear  
 29 and convincing evidence that the best interests of the child would  
 30 be met by the provision of additional reunification services to a  
 31 parent or legal guardian who is making significant and consistent  
 32 progress in a court-ordered residential substance abuse treatment  
 33 program, *a minor parent at the initial hearing making significant*  
 34 *and consistent progress in establishing a safe home for the child's*  
 35 *return*, or a parent recently discharged from incarceration,  
 36 institutionalization, or the custody of the United States Department  
 37 of Homeland Security and making significant and consistent  
 38 progress in establishing a safe home for the child's return, the court  
 39 may continue the case for up to six months for a subsequent  
 40 permanency review hearing, provided that the hearing shall occur

1 within 24 months of the date the child was originally taken from  
2 the physical custody of his or her parent or legal guardian. The  
3 court shall continue the case only if it finds that there is a  
4 substantial probability that the child will be returned to the physical  
5 custody of his or her parent or legal guardian and safely maintained  
6 in the home within the extended period of time or that reasonable  
7 services have not been provided to the parent or legal guardian.  
8 For the purposes of this section, in order to find a substantial  
9 probability that the child will be returned to the physical custody  
10 of his or her parent or legal guardian and safely maintained in the  
11 home within the extended period of time, the court shall be required  
12 to find all of the following:

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

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

18 (3) The parent or legal guardian has demonstrated the capacity  
19 and ability both to complete the objectives of his or her substance  
20 abuse treatment plan as evidenced by reports from a substance  
21 abuse provider as applicable, or complete a treatment plan  
22 postdischarge from incarceration, institutionalization, or detention,  
23 or following deportation to his or her country of origin and his or  
24 her return to the United States, and to provide for the child's safety,  
25 protection, physical and emotional well-being, and special needs.

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

32 The court shall inform the parent or legal guardian that if the  
33 child cannot be returned home by the subsequent permanency  
34 review hearing, a proceeding pursuant to Section 366.26 may be  
35 instituted. The court may not order that a hearing pursuant to  
36 Section 366.26 be held unless there is clear and convincing  
37 evidence that reasonable services have been provided or offered  
38 to the parent or legal guardian.

39 (c) (1) Whenever a court orders that a hearing pursuant to  
40 Section 366.26, including when a tribal customary adoption is



1 recommended, shall be held, it shall direct the agency supervising  
2 the child and the county adoption agency, or the State Department  
3 of Social Services when it is acting as an adoption agency, to  
4 prepare an assessment that shall include:

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

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

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

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

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

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

39 (G) In the case of an Indian child, in addition to subparagraphs

40 (A) to (F), inclusive, an assessment of the likelihood that the child

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

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

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

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

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

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

38 (e) As used in this section, "relative" means an adult who is  
39 related to the child by blood, adoption, or affinity within the fifth  
40 degree of kinship, including stepparents, stepsiblings, and all

1 relatives whose status is preceded by the words “great,”  
2 “great-great,” or “grand,” or the spouse of any of those persons  
3 even if the marriage was terminated by death or dissolution. If the  
4 proposed permanent plan is guardianship with an approved relative  
5 caregiver for a minor eligible for aid under the Kin-GAP Program,  
6 as provided for in Article 4.7 (commencing with Section 11385)  
7 of Chapter 2 of Part 3 of Division 9, “relative” as used in this  
8 section has the same meaning as “relative” as defined in  
9 subdivision (c) of Section 11391.

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

14 SEC. 4. If the Commission on State Mandates determines that  
15 this act contains costs mandated by the state, reimbursement to  
16 local agencies and school districts for those costs shall be made  
17 pursuant to Part 7 (commencing with Section 17500) of Division  
18 4 of Title 2 of the Government Code.