

AMENDED IN SENATE JUNE 2, 2015
AMENDED IN SENATE MARCH 26, 2015

SENATE BILL

No. 68

Introduced by Senator Liu

January 8, 2015

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

LEGISLATIVE COUNSEL'S DIGEST

SB 68, as amended, 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 specified 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) *child.* 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)~~

~~(2) 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 *who is* making significant and consistent progress in establishing a safe home for the child's return ~~and for~~ 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-no. State-mandated local program: yes-no.~~

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~~

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

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

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

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

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

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

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

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

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

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

1 the court shall take the child's desire into account in devising a
2 permanency plan.

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

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

36 When counseling or other treatment services are ordered, the
37 parent or guardian shall be ordered to participate in those services,
38 in order for substantial probability to be found. Physical custody
39 of the child by the parents or guardians during the applicable time
40 period under subparagraph (A), (B), or (C) of paragraph (1) shall

1 not serve to interrupt the running of the time period. If at the end
2 of the applicable time period, the child cannot be safely returned
3 to the care and custody of a parent or guardian without court
4 supervision, but the child clearly desires contact with the parent
5 or guardian, the court shall take the child's desire into account in
6 devising a permanency plan.

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

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

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

19 (2) That the parent or guardian is suffering from a mental
20 disability that is described in Chapter 2 (commencing with Section
21 7820) of Part 4 of Division 12 of the Family Code and that renders
22 him or her incapable of utilizing those services.

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

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

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

37 (6) That the child has been adjudicated a dependent pursuant
38 to any subdivision of Section 300 as a result of severe sexual abuse
39 or the infliction of severe physical harm to the child, a sibling, or
40 a half sibling by a parent or guardian, as defined in this subdivision;

1 and the court makes a factual finding that it would not benefit the
2 child to pursue reunification services with the offending parent or
3 guardian.

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

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

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

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

33 (9) That the child has been found to be a child described in
34 subdivision (g) of Section 300; that the parent or guardian of the
35 child willfully abandoned the child, and the court finds that the
36 abandonment itself constituted a serious danger to the child; or
37 that the parent or other person having custody of the child
38 voluntarily surrendered physical custody of the child pursuant to
39 Section 1255.7 of the Health and Safety Code. For the purposes
40 of this paragraph, "serious danger" means that without the

1 intervention of another person or agency, the child would have
2 sustained severe or permanent disability, injury, illness, or death.
3 For purposes of this paragraph, “willful abandonment” shall not
4 be construed as actions taken in good faith by the parent without
5 the intent of placing the child in serious danger.

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

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

22 ~~(12) That the parent or guardian of the child has been convicted
23 of a violent felony, as defined in subdivision (c) of Section 667.5
24 of the Penal Code.~~

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

34 ~~(14) That the parent or guardian of the child has advised the
35 court that he or she is not interested in receiving family
36 maintenance or family reunification services or having the child
37 returned to or placed in his or her custody and does not wish to
38 receive family maintenance or reunification services.~~

39 ~~The parent or guardian shall be represented by counsel and shall
40 execute a waiver of services form to be adopted by the Judicial~~

1 Council. The court shall advise the parent or guardian of any right
2 to ~~services and of the possible consequences of a waiver of~~
3 ~~services, including the termination of parental rights and placement~~
4 ~~of the child for adoption. The court shall not accept the waiver of~~
5 ~~services unless it states on the record its finding that the parent or~~
6 ~~guardian has knowingly and intelligently waived the right to~~
7 ~~services.~~

8 (15) ~~That the parent or guardian has on one or more occasions~~
9 ~~willfully abducted the child or child's sibling or half sibling from~~
10 ~~his or her placement and refused to disclose the child's or child's~~
11 ~~sibling's or half sibling's whereabouts, refused to return physical~~
12 ~~custody of the child or child's sibling or half sibling to his or her~~
13 ~~placement, or refused to return physical custody of the child or~~
14 ~~child's sibling or half sibling to the social worker.~~

15 (16) ~~That the parent or guardian has been required by the court~~
16 ~~to be registered on a sex offender registry under the federal Adam~~
17 ~~Walsh Child Protection and Safety Act of 2006 (42 U.S.C. Sec.~~
18 ~~16913(a)), as required in Section 106(b)(2)(B)(xvi)(VI) of the~~
19 ~~federal Child Abuse Prevention and Treatment Act (42 U.S.C.~~
20 ~~Sec. 5106a(a)(2)(B)(xvi)(VI)).~~

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

31 (2) ~~The court shall not order reunification for a parent or~~
32 ~~guardian described in paragraph (3), (4), (6), (7), (8), (9), (10),~~
33 ~~(11), (12), (13), (14), (15), or (16) of subdivision (b) unless the~~
34 ~~court finds, by clear and convincing evidence, that reunification~~
35 ~~is in the best interest of the child.~~

36 (3) ~~In addition, the court shall not order reunification in any~~
37 ~~situation described in paragraph (5) of subdivision (b) unless it~~
38 ~~finds that, based on competent testimony, those services are likely~~
39 ~~to prevent reabuse or continued neglect of the child or that failure~~
40 ~~to try reunification will be detrimental to the child because the~~

1 child is closely and positively attached to that parent. The social
2 worker shall investigate the circumstances leading to the removal
3 of the child and advise the court whether there are circumstances
4 that indicate that reunification is likely to be successful or
5 unsuccessful and whether failure to order reunification is likely to
6 be detrimental to the child.

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

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

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

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

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

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

12 (B) Transportation services, where appropriate.

13 (C) Visitation services, where appropriate.

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

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

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

32 (2) The presiding judge of the juvenile court of each county
33 may convene representatives of the county welfare department,
34 the sheriff's department, and other appropriate entities for the
35 purpose of developing and entering into protocols for ensuring the
36 notification, transportation, and presence of an incarcerated or
37 institutionalized parent at all court hearings involving proceedings
38 affecting the child pursuant to Section 2625 of the Penal Code.
39 The county welfare department shall utilize the prisoner locator
40 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 law, if the incarcerated parent is
4 a woman seeking to participate in the community treatment
5 program operated by the Department of Corrections and
6 Rehabilitation pursuant to Chapter 4.8 (commencing with Section
7 1174) of Title 7 of Part 2 of, Chapter 4 (commencing with Section
8 3410) of Title 2 of Part 3 of, the Penal Code, the court shall
9 determine whether the parent's participation in a program is in the
10 child's best interest and whether it is suitable to meet the needs of
11 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 (e) 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.~~

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.~~

35 *SECTION 1.* Section 366.21 of the Welfare and Institutions
36 Code, as amended by Section 6 of Chapter 219 of the Statutes of
37 2014, is amended to read:

38 366.21. (a) Every hearing conducted by the juvenile court
39 reviewing the status of a dependent child shall be placed on the
40 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 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.

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

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

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

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

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

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

37 The court shall inform the parent or legal guardian that if the
38 child cannot be returned home by the next permanency review
39 hearing, a proceeding pursuant to Section 366.26 may be instituted.
40 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

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

12 (j) If, at any hearing held pursuant to Section 366.26, a
13 guardianship is established for the minor with an approved relative
14 caregiver, and juvenile court dependency is subsequently
15 dismissed, the minor shall be eligible for aid under the Kin-GAP
16 Program, as provided for in Article 4.5 (commencing with Section
17 11360) or Article 4.7 (commencing with Section 11385), as
18 applicable, of Chapter 2 of Part 3 of Division 9.

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

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

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

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

38 (3) Services to make and finalize a permanent placement for
39 the child, if efforts to reunify fail, are provided concurrently with
40 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.~~

6 *SEC. 2.* Section 366.22 of the Welfare and Institutions Code,
7 as amended by Section 7 of Chapter 219 of the Statutes of 2014,
8 is amended to read:

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

1 pursuant to Section 356.5; shall consider the efforts or progress,
2 or both, demonstrated by the parent or legal guardian and the extent
3 to which he or she availed himself or herself of services provided,
4 taking into account the particular barriers of a minor parent or an
5 incarcerated or institutionalized parent's or legal guardian's access
6 to those court-mandated services and ability to maintain contact
7 with his or her child; and shall make appropriate findings pursuant
8 to subdivision (a) of Section 366.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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