

AMENDED IN ASSEMBLY JUNE 14, 2016

SENATE BILL

No. 316

Introduced by Senator Mitchell

(Principal coauthor: Assembly Member ~~Levine~~ Cooley)

(Coauthor: Senator Huff)

February 23, 2015

~~An act to amend Section 317 of the Welfare and Institutions Code, relating to dependency proceedings. An act to amend Section 8712 of the Family Code, to amend Section 1522 of the Health and Safety Code, and to amend Sections 309, 361.4, and 16519.5 of the Welfare and Institutions Code, relating to child placement.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 316, as amended, Mitchell. ~~Dependency proceedings: counsel.~~
Placement of children: criminal records check.

Existing law requires the State Department of Social Services, before issuing a license or special permit to any person to operate or manage a community care facility, including a foster family home, to secure from an appropriate law enforcement agency a criminal record regarding the applicant, as specified. Existing law requires the department to deny an application if the applicant has been convicted of any crime other than a minor traffic violation unless the applicant has been granted an exemption. Existing law prohibits the department from granting criminal records exemptions if a person has been convicted of certain crimes. Existing law also requires the department to implement a resource family approval process, as specified, that includes a criminal records clearance of all adults residing in, or regularly present in, the home. Existing law makes the criminal records

exemption criteria applicable to foster care provider applicants applicable to resource family applicants.

This bill would authorize the department, or, in the case of a resource family applicant, an early implementation county, to grant a criminal records exemption for a foster care provider applicant or resource family applicant for certain crimes previously ineligible for exemption. The bill would also require, if a foster care provider applicant or resource family applicant has been convicted of an offense that is not specifically eligible or ineligible for exemption, the criminal history to be considered as part of the foster care provider licensing process or resource family approval process. The bill would require the department to consider all reasonably available information when determining whether to grant criminal records exemptions for any community care facility applicant.

Existing law requires the county welfare department, prior to temporarily placing a child with a relative or nonrelative extended family member, to consider the results of a criminal records check, as specified. Existing law also requires the county social worker, prior to placing a child in the home of a relative, or the home of any prospective guardian or other person who is not a licensed or certified foster parent, to consider the results of a criminal records check, as specified. Existing law prohibits these placements if the person has been convicted of any crime other than a minor traffic violation, unless an exemption has been granted, as specified.

This bill would authorize placement, or temporary placement, as applicable, of the child pending approval of a criminal records exemption if all parties agree that the placement is in the best interests of the child. The bill would also require, if the person has been convicted of an offense that is not specifically eligible or ineligible for exemption, the criminal history to be considered in determining if the placement is in the best interest of the child.

By imposing a higher level of service on county employees, the bill would impose a state-mandated local program.

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

This bill would provide that no reimbursement is required by this act for a specified reason.

~~Existing law requires the juvenile court to appoint counsel for a child or nonminor dependent in dependency proceedings if he or she is not represented by counsel, unless the court determines that there would be no benefit from the appointment of counsel. Existing law authorizes counsel to be a district attorney, public defender, or other member of the bar who satisfies certain conditions. Existing law authorizes the court to fix the compensation for the services of appointed counsel. Existing law requires the Judicial Council to promulgate rules of court to establish caseload standards, training requirements, and guidelines for appointed counsel.~~

~~This bill would prohibit counsel representing a child or nonminor dependent in dependency proceedings from having a caseload that exceeds a certain number of clients, as specified. The bill would delete the requirement that the Judicial Council promulgate rules of court to establish caseload standards.~~

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

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

1 SECTION 1. Section 8712 of the Family Code is amended to
2 read:
3 8712. (a) The department, county adoption agency, or licensed
4 adoption agency shall require each person who files an application
5 for adoption to be fingerprinted and shall secure from an
6 appropriate law enforcement agency any criminal record of that
7 person to determine whether the person has ever been convicted
8 of a crime other than a minor traffic violation. The department,
9 county adoption agency, or licensed adoption agency may also
10 secure the person's full criminal record, if any, with the exception
11 of any convictions for which relief has been granted pursuant to
12 Section 1203.49 of the Penal Code. ~~Any~~ A federal-level criminal
13 offender record ~~requests~~ request to the Department of Justice shall
14 be submitted with fingerprint images and related information
15 required by the Department of Justice for the purposes of obtaining
16 information as to the existence and content of a record of an
17 out-of-state or federal conviction or arrest of a person or
18 information regarding any out-of-state or federal crimes or arrests
19 for which the Department of Justice establishes that the person is
20 free on bail, or on his or her own recognizance pending trial or

1 appeal. The Department of Justice shall forward to the Federal
2 Bureau of Investigation any requests for federal summary criminal
3 history information received pursuant to this section. The
4 Department of Justice shall review the information returned from
5 the Federal Bureau of Investigation and shall compile and
6 disseminate a response to the department, county adoption agency,
7 or licensed adoption agency.

8 (b) Notwithstanding subdivision (c), the criminal record, if any,
9 shall be taken into consideration when evaluating the prospective
10 adoptive parent, and an assessment of the effects of any criminal
11 history on the ability of the prospective adoptive parent to provide
12 adequate and proper care and guidance to the child shall be
13 included in the report to the court.

14 (c) ~~(1)~~—The department, county adoption agency, or licensed
15 adoption agency shall not give final approval for an adoptive
16 placement in any home in which the prospective adoptive parent
17 or any adult living in the prospective adoptive home has ~~either of~~
18 ~~the following: been convicted of an offense for which an exemption~~
19 ~~cannot be granted pursuant to subparagraph (C) of paragraph~~
20 ~~(1) of subdivision (g) of Section 1522 of the Health and Safety~~
21 ~~Code.~~

22 ~~(A) A felony conviction for child abuse or neglect, spousal~~
23 ~~abuse, crimes against a child, including child pornography, or for~~
24 ~~a crime involving violence, including rape, sexual assault, or~~
25 ~~homicide, but not including other physical assault and battery. For~~
26 ~~purposes of this subdivision, crimes involving violence means~~
27 ~~those violent crimes contained in clause (i) of subparagraph (A),~~
28 ~~and subparagraph (B), of paragraph (1) of subdivision (g) of~~
29 ~~Section 1522 of the Health and Safety Code.~~

30 ~~(B) A felony conviction that occurred within the last five years~~
31 ~~for physical assault, battery, or a drug- or alcohol-related offense.~~

32 ~~(2) This subdivision shall become operative on October 1, 2008,~~
33 ~~and shall remain operative only to the extent that compliance with~~
34 ~~its provisions is required by federal law as a condition of receiving~~
35 ~~funding under Title IV-E of the federal Social Security Act (42~~
36 ~~U.S.C. Sec. 670 et seq.).~~

37 (d) Any fee charged by a law enforcement agency for
38 fingerprinting or for checking or obtaining the criminal record of
39 the applicant shall be paid by the applicant. The department, county
40 adoption agency, or licensed adoption agency may defer, waive,

1 or reduce the fee when its payment would cause economic hardship
2 to prospective adoptive parents detrimental to the welfare of the
3 adopted child, when the child has been in the foster care of the
4 prospective adoptive parents for at least one year, or if necessary
5 for the placement of a special-needs child.

6 *SEC. 2. Section 1522 of the Health and Safety Code is amended*
7 *to read:*

8 1522. The Legislature recognizes the need to generate timely
9 and accurate positive fingerprint identification of applicants as a
10 condition of issuing licenses, permits, or certificates of approval
11 for persons to operate or provide direct care services in a
12 community care facility, foster family home, or a certified family
13 home of a licensed foster family agency. Therefore, the Legislature
14 supports the use of the fingerprint live-scan technology, as
15 identified in the long-range plan of the Department of Justice for
16 fully automating the processing of fingerprints and other data by
17 the year 1999, otherwise known as the California Crime
18 Information Intelligence System (CAL-CII), to be used for
19 applicant fingerprints. It is the intent of the Legislature in enacting
20 this section to require the fingerprints of those individuals whose
21 contact with community care clients may pose a risk to the clients'
22 health and safety. An individual shall be required to obtain either
23 a criminal record clearance or a criminal record exemption from
24 the State Department of Social Services before his or her initial
25 presence in a community care facility or certified family home.

26 (a) (1) Before and, as applicable, subsequent to issuing a license
27 or special permit to any person or persons to operate or manage a
28 community care facility, the State Department of Social Services
29 shall secure from an appropriate law enforcement agency a criminal
30 record to determine whether the applicant or any other person
31 specified in subdivision (b) has ever been convicted of a crime
32 other than a minor traffic violation or arrested for any crime
33 specified in Section 290 of the Penal Code, or for violating Section
34 245, 273ab, or 273.5 of the Penal Code, subdivision (b) of Section
35 273a of the Penal Code, or, prior to January 1, 1994, paragraph
36 (2) of Section 273a of the Penal Code, or for any crime for which
37 the department is prohibited from granting a criminal record
38 exemption pursuant to subdivision (g).

1 (2) The criminal history information shall include the full
2 criminal record, if any, of those persons, and subsequent arrest
3 information pursuant to Section 11105.2 of the Penal Code.

4 (3) Except during the 2003–04 to the 2016–17 fiscal years,
5 inclusive, neither the Department of Justice nor the State
6 Department of Social Services may charge a fee for the
7 fingerprinting of an applicant for a license or special permit to
8 operate a facility providing nonmedical board, room, and care for
9 six or less children or for obtaining a criminal record of the
10 applicant pursuant to this section.

11 (4) The following shall apply to the criminal record information:

12 (A) If the State Department of Social Services finds that the
13 applicant, or any other person specified in subdivision (b), has
14 been convicted of a crime other than a minor traffic violation, the
15 application shall be denied, unless the director grants an exemption
16 pursuant to subdivision (g).

17 (B) If the State Department of Social Services finds that the
18 applicant, or any other person specified in subdivision (b), is
19 awaiting trial for a crime other than a minor traffic violation, the
20 State Department of Social Services may cease processing the
21 criminal record information until the conclusion of the trial.

22 (C) If no criminal record information has been recorded, the
23 Department of Justice shall provide the applicant and the State
24 Department of Social Services with a statement of that fact.

25 (D) If the State Department of Social Services finds after
26 licensure that the licensee, or any other person specified in
27 paragraph (1) of subdivision (b), has been convicted of a crime
28 other than a minor traffic violation, the license may be revoked,
29 unless the director grants an exemption pursuant to subdivision
30 (g).

31 (E) An applicant and any other person specified in subdivision
32 (b) shall submit fingerprint images and related information to the
33 Department of Justice for the purpose of searching the criminal
34 records of the Federal Bureau of Investigation, in addition to the
35 criminal records search required by this subdivision. If an applicant
36 and all other persons described in subdivision (b) meet all of the
37 conditions for licensure, except receipt of the Federal Bureau of
38 Investigation's criminal offender record information search
39 response for the applicant or any of the persons described in
40 subdivision (b), the department may issue a license if the applicant

1 and each person described in subdivision (b) has signed and
2 submitted a statement that he or she has never been convicted of
3 a crime in the United States, other than a traffic infraction, as
4 prescribed in paragraph (1) of subdivision (a) of Section 42001 of
5 the Vehicle Code. If, after licensure, or the issuance of a certificate
6 of approval of a certified family home by a foster family agency,
7 the department determines that the licensee or any other person
8 specified in subdivision (b) has a criminal record, the department
9 may revoke the license, or require a foster family agency to revoke
10 the certificate of approval, pursuant to Section 1550. The
11 department may also suspend the license or require a foster family
12 agency to suspend the certificate of approval pending an
13 administrative hearing pursuant to Section 1550.5.

14 (F) The State Department of Social Services shall develop
15 procedures to provide the individual's state and federal criminal
16 history information with the written notification of his or her
17 exemption denial or revocation based on the criminal record.
18 Receipt of the criminal history information shall be optional on
19 the part of the individual, as set forth in the agency's procedures.
20 The procedure shall protect the confidentiality and privacy of the
21 individual's record, and the criminal history information shall not
22 be made available to the employer.

23 (G) Notwithstanding any other law, the department is authorized
24 to provide an individual with a copy of his or her state or federal
25 level criminal offender record information search response as
26 provided to that department by the Department of Justice if the
27 department has denied a criminal background clearance based on
28 this information and the individual makes a written request to the
29 department for a copy specifying an address to which it is to be
30 sent. The state or federal level criminal offender record information
31 search response shall not be modified or altered from its form or
32 content as provided by the Department of Justice and shall be
33 provided to the address specified by the individual in his or her
34 written request. The department shall retain a copy of the
35 individual's written request and the response and date provided.

36 (b) (1) In addition to the applicant, this section shall be
37 applicable to criminal record clearances and exemptions for the
38 following persons:

39 (A) Adults responsible for administration or direct supervision
40 of staff.

1 (B) Any person, other than a client, residing in the facility or
2 certified family home.

3 (C) Any person who provides client assistance in dressing,
4 grooming, bathing, or personal hygiene. Any nurse assistant or
5 home health aide meeting the requirements of Section 1338.5 or
6 1736.6, respectively, who is not employed, retained, or contracted
7 by the licensee, and who has been certified or recertified on or
8 after July 1, 1998, shall be deemed to meet the criminal record
9 clearance requirements of this section. A certified nurse assistant
10 and certified home health aide who will be providing client
11 assistance and who falls under this exemption shall provide one
12 copy of his or her current certification, prior to providing care, to
13 the community care facility. The facility shall maintain the copy
14 of the certification on file as long as care is being provided by the
15 certified nurse assistant or certified home health aide at the facility
16 or certified family home. Nothing in this paragraph restricts the
17 right of the department to exclude a certified nurse assistant or
18 certified home health aide from a licensed community care facility
19 or certified family home pursuant to Section 1558.

20 (D) Any staff person, volunteer, or employee who has contact
21 with the clients.

22 (E) If the applicant is a firm, partnership, association, or
23 corporation, the chief executive officer or other person serving in
24 like capacity.

25 (F) Additional officers of the governing body of the applicant,
26 or other persons with a financial interest in the applicant, as
27 determined necessary by the department by regulation. The criteria
28 used in the development of these regulations shall be based on the
29 person's capability to exercise substantial influence over the
30 operation of the facility.

31 (2) The following persons are exempt from the requirements
32 applicable under paragraph (1):

33 (A) A medical professional as defined in department regulations
34 who holds a valid license or certification from the person's
35 governing California medical care regulatory entity and who is
36 not employed, retained, or contracted by the licensee if all of the
37 following apply:

38 (i) The criminal record of the person has been cleared as a
39 condition of licensure or certification by the person's governing
40 California medical care regulatory entity.

1 (ii) The person is providing time-limited specialized clinical
2 care or services.

3 (iii) The person is providing care or services within the person's
4 scope of practice.

5 (iv) The person is not a community care facility licensee or an
6 employee of the facility.

7 (B) A third-party repair person or similar retained contractor if
8 all of the following apply:

9 (i) The person is hired for a defined, time-limited job.

10 (ii) The person is not left alone with clients.

11 (iii) When clients are present in the room in which the repair
12 person or contractor is working, a staff person who has a criminal
13 record clearance or exemption is also present.

14 (C) Employees of a licensed home health agency and other
15 members of licensed hospice interdisciplinary teams who have a
16 contract with a client or resident of the facility and are in the
17 facility at the request of that client or resident's legal
18 decisionmaker. The exemption does not apply to a person who is
19 a community care facility licensee or an employee of the facility.

20 (D) Clergy and other spiritual caregivers who are performing
21 services in common areas of the community care facility or who
22 are advising an individual client at the request of, or with the
23 permission of, the client or legal decisionmaker, are exempt from
24 fingerprint and criminal background check requirements imposed
25 by community care licensing. This exemption does not apply to a
26 person who is a community care licensee or employee of the
27 facility.

28 (E) Members of fraternal, service, or similar organizations who
29 conduct group activities for clients if all of the following apply:

30 (i) Members are not left alone with clients.

31 (ii) Members do not transport clients off the facility premises.

32 (iii) The same organization does not conduct group activities
33 for clients more often than defined by the department's regulations.

34 (3) In addition to the exemptions in paragraph (2), the following
35 persons in foster family homes, certified family homes, and small
36 family homes are exempt from the requirements applicable under
37 paragraph (1):

38 (A) Adult friends and family of the licensed or certified foster
39 parent, who come into the home to visit for a length of time no
40 longer than defined by the department in regulations, provided

1 that the adult friends and family of the licensee or certified parent
2 are not left alone with the foster children. However, the licensee
3 or certified parent, acting as a reasonable and prudent parent, as
4 defined in paragraph (2) of subdivision (a) of Section 362.04 of
5 the Welfare and Institutions Code, may allow his or her adult
6 friends and family to provide short-term care to the foster child
7 and act as an appropriate occasional short-term babysitter for the
8 child.

9 (B) Parents of a foster child's friend when the foster child is
10 visiting the friend's home and the friend, licensed or certified foster
11 parent, or both are also present. However, the licensee or certified
12 parent, acting as a reasonable and prudent parent, may allow the
13 parent of the foster child's friend to act as an appropriate short-term
14 babysitter for the child without the friend being present.

15 (C) Individuals who are engaged by any licensed or certified
16 foster parent to provide short-term care to the child for periods not
17 to exceed 24 hours. Caregivers shall use a reasonable and prudent
18 parent standard in selecting appropriate individuals to act as
19 appropriate occasional short-term babysitters.

20 (4) In addition to the exemptions specified in paragraph (2), the
21 following persons in adult day care and adult day support centers
22 are exempt from the requirements applicable under paragraph (1):

23 (A) Unless contraindicated by the client's individualized
24 program plan (IPP) or needs and service plan, a spouse, significant
25 other, relative, or close friend of a client, or an attendant or a
26 facilitator for a client with a developmental disability if the
27 attendant or facilitator is not employed, retained, or contracted by
28 the licensee. This exemption applies only if the person is visiting
29 the client or providing direct care and supervision to the client.

30 (B) A volunteer if all of the following applies:

31 (i) The volunteer is supervised by the licensee or a facility
32 employee with a criminal record clearance or exemption.

33 (ii) The volunteer is never left alone with clients.

34 (iii) The volunteer does not provide any client assistance with
35 dressing, grooming, bathing, or personal hygiene other than
36 washing of hands.

37 (5) (A) In addition to the exemptions specified in paragraph
38 (2), the following persons in adult residential and social
39 rehabilitation facilities, unless contraindicated by the client's
40 individualized program plan (IPP) or needs and services plan, are

1 exempt from the requirements applicable under paragraph (1): a
2 spouse, significant other, relative, or close friend of a client, or an
3 attendant or a facilitator for a client with a developmental disability
4 if the attendant or facilitator is not employed, retained, or
5 contracted by the licensee. This exemption applies only if the
6 person is visiting the client or providing direct care and supervision
7 to that client.

8 (B) Nothing in this subdivision shall prevent a licensee from
9 requiring a criminal record clearance of any individual exempt
10 from the requirements of this section, provided that the individual
11 has client contact.

12 (6) Any person similar to those described in this subdivision,
13 as defined by the department in regulations.

14 (c) (1) Subsequent to initial licensure, a person specified in
15 subdivision (b) who is not exempted from fingerprinting shall
16 obtain either a criminal record clearance or an exemption from
17 disqualification pursuant to subdivision (g) from the State
18 Department of Social Services prior to employment, residence, or
19 initial presence in the facility. A person specified in subdivision
20 (b) who is not exempt from fingerprinting shall be fingerprinted
21 and shall sign a declaration under penalty of perjury regarding any
22 prior criminal convictions. The licensee shall submit fingerprint
23 images and related information to the Department of Justice and
24 the Federal Bureau of Investigation, through the Department of
25 Justice, for a state and federal level criminal offender record
26 information search, or comply with paragraph (1) of subdivision
27 (h). These fingerprint images and related information shall be sent
28 by electronic transmission in a manner approved by the State
29 Department of Social Services and the Department of Justice for
30 the purpose of obtaining a permanent set of fingerprints, and shall
31 be submitted to the Department of Justice by the licensee. A
32 licensee's failure to prohibit the employment, residence, or initial
33 presence of a person specified in subdivision (b) who is not exempt
34 from fingerprinting and who has not received either a criminal
35 record clearance or an exemption from disqualification pursuant
36 to subdivision (g) or to comply with paragraph (1) of subdivision
37 (h), as required in this section, shall result in the citation of a
38 deficiency and the immediate assessment of civil penalties in the
39 amount of one hundred dollars (\$100) per violation per day for a
40 maximum of five days, unless the violation is a second or

1 subsequent violation within a 12-month period in which case the
2 civil penalties shall be in the amount of one hundred dollars (\$100)
3 per violation for a maximum of 30 days, and shall be grounds for
4 disciplining the licensee pursuant to Section 1550. The department
5 may assess civil penalties for continued violations as permitted by
6 Section 1548. The fingerprint images and related information shall
7 then be submitted to the Department of Justice for processing.
8 Upon request of the licensee, who shall enclose a self-addressed
9 stamped postcard for this purpose, the Department of Justice shall
10 verify receipt of the fingerprints.

11 (2) Within 14 calendar days of the receipt of the fingerprint
12 images, the Department of Justice shall notify the State Department
13 of Social Services of the criminal record information, as provided
14 for in subdivision (a). If no criminal record information has been
15 recorded, the Department of Justice shall provide the licensee and
16 the State Department of Social Services with a statement of that
17 fact within 14 calendar days of receipt of the fingerprint images.
18 Documentation of the individual's clearance or exemption from
19 disqualification shall be maintained by the licensee and be available
20 for inspection. If new fingerprint images are required for
21 processing, the Department of Justice shall, within 14 calendar
22 days from the date of receipt of the fingerprints, notify the licensee
23 that the fingerprints were illegible, the Department of Justice shall
24 notify the State Department of Social Services, as required by
25 Section 1522.04, and shall also notify the licensee by mail, within
26 14 days of electronic transmission of the fingerprints to the
27 Department of Justice, if the person has no criminal history
28 recorded. A violation of the regulations adopted pursuant to Section
29 1522.04 shall result in the citation of a deficiency and an immediate
30 assessment of civil penalties in the amount of one hundred dollars
31 (\$100) per violation per day for a maximum of five days, unless
32 the violation is a second or subsequent violation within a 12-month
33 period in which case the civil penalties shall be in the amount of
34 one hundred dollars (\$100) per violation for a maximum of 30
35 days, and shall be grounds for disciplining the licensee pursuant
36 to Section 1550. The department may assess civil penalties for
37 continued violations as permitted by Section 1548.

38 (3) Except for persons specified in subdivision (b) who are
39 exempt from fingerprinting, the licensee shall endeavor to ascertain
40 the previous employment history of persons required to be

1 fingerprinted. If it is determined by the State Department of Social
2 Services, on the basis of the fingerprint images and related
3 information submitted to the Department of Justice, that subsequent
4 to obtaining a criminal record clearance or exemption from
5 disqualification pursuant to subdivision (g), the person has been
6 convicted of, or is awaiting trial for, a sex offense against a minor,
7 or has been convicted for an offense specified in Section 243.4,
8 273a, 273ab, 273d, 273g, or 368 of the Penal Code, or a felony,
9 the State Department of Social Services shall notify the licensee
10 to act immediately to terminate the person's employment, remove
11 the person from the community care facility, or bar the person
12 from entering the community care facility. The State Department
13 of Social Services may subsequently grant an exemption from
14 disqualification pursuant to subdivision (g). If the conviction or
15 arrest was for another crime, except a minor traffic violation, the
16 licensee shall, upon notification by the State Department of Social
17 Services, act immediately to either (A) terminate the person's
18 employment, remove the person from the community care facility,
19 or bar the person from entering the community care facility; or
20 (B) seek an exemption from disqualification pursuant to subdivision
21 (g). The State Department of Social Services shall determine if
22 the person shall be allowed to remain in the facility until a decision
23 on the exemption from disqualification is rendered. A licensee's
24 failure to comply with the department's prohibition of employment,
25 contact with clients, or presence in the facility as required by this
26 paragraph shall result in a citation of deficiency and an immediate
27 assessment of civil penalties in the amount of one hundred dollars
28 (\$100) per violation per day and shall be grounds for disciplining
29 the licensee pursuant to Section 1550.

30 (4) The department may issue an exemption from
31 disqualification on its own motion pursuant to subdivision (g) if
32 the person's criminal history indicates that the person is of good
33 character based on the age, seriousness, and frequency of the
34 conviction or convictions. The department, in consultation with
35 interested parties, shall develop regulations to establish the criteria
36 to grant an exemption from disqualification pursuant to this
37 paragraph.

38 (5) Concurrently with notifying the licensee pursuant to
39 paragraph (3), the department shall notify the affected individual
40 of his or her right to seek an exemption from disqualification

1 pursuant to subdivision (g). The individual may seek an exemption
2 from disqualification only if the licensee terminates the person's
3 employment or removes the person from the facility after receiving
4 notice from the department pursuant to paragraph (3).

5 (d) (1) Before and, as applicable, subsequent to issuing a license
6 or certificate of approval to any person or persons to operate a
7 foster family home or certified family home as described in Section
8 1506, the State Department of Social Services or other approving
9 authority shall secure California and Federal Bureau of
10 Investigation criminal history information to determine whether
11 the applicant or any person specified in subdivision (b) who is not
12 exempt from fingerprinting has ever been convicted of a crime
13 other than a minor traffic violation or arrested for any crime
14 specified in subdivision (c) of Section 290 of the Penal Code, for
15 violating Section 245, 273ab, or 273.5, subdivision (b) of Section
16 273a, or, prior to January 1, 1994, paragraph (2) of Section 273a,
17 of the Penal Code, or for any crime for which the department is
18 prohibited from granting a criminal record exemption pursuant to
19 subdivision (g). The State Department of Social Services or other
20 approving authority shall not issue a license or certificate of
21 approval to any foster family home or certified family home
22 applicant who has not obtained both a California and Federal
23 Bureau of Investigation criminal record clearance or exemption
24 from disqualification pursuant to subdivision (g).

25 (2) The criminal history information shall include the full
26 criminal record, if any, of those persons.

27 (3) Neither the Department of Justice nor the State Department
28 of Social Services may charge a fee for the fingerprinting of an
29 applicant for a license, special permit, or certificate of approval
30 described in this subdivision. The record, if any, shall be taken
31 into consideration when evaluating a prospective applicant.

32 (4) The following shall apply to the criminal record information:

33 (A) If the applicant or other persons specified in subdivision
34 (b) who are not exempt from fingerprinting have convictions that
35 would make the applicant's home unfit as a foster family home or
36 a certified family home, the license, special permit, certificate of
37 approval, or presence shall be denied.

38 (B) If the State Department of Social Services finds that the
39 applicant, or any person specified in subdivision (b) who is not
40 exempt from fingerprinting is awaiting trial for a crime other than

1 a minor traffic violation, the State Department of Social Services
2 or other approving authority may cease processing the criminal
3 record information until the conclusion of the trial.

4 (C) For purposes of this subdivision, a criminal record clearance
5 provided under Section 8712 of the Family Code may be used by
6 the department or other approving agency.

7 (D) To the same extent required for federal funding, an applicant
8 for a foster family home license or for certification as a family
9 home, and any other person specified in subdivision (b) who is
10 not exempt from fingerprinting, shall submit a set of fingerprint
11 images and related information to the Department of Justice and
12 the Federal Bureau of Investigation, through the Department of
13 Justice, for a state and federal level criminal offender record
14 information search, in addition to the criminal records search
15 required by subdivision (a).

16 (5) Any person specified in this subdivision shall, as a part of
17 the application, be fingerprinted and sign a declaration under
18 penalty of perjury regarding any prior criminal convictions or
19 arrests for any crime against a child, spousal or cohabitant abuse,
20 or any crime for which the department cannot grant an exemption
21 if the person was convicted and shall submit these fingerprints to
22 the licensing agency or other approving authority.

23 (6) (A) Subsequent to initial licensure or certification, a person
24 specified in subdivision (b) who is not exempt from fingerprinting
25 shall obtain both a California and Federal Bureau of Investigation
26 criminal record clearance, or an exemption from disqualification
27 pursuant to subdivision (g), prior to employment, residence, or
28 initial presence in the foster family or certified family home. A
29 foster family home licensee or foster family agency shall submit
30 fingerprint images and related information of persons specified in
31 subdivision (b) who are not exempt from fingerprinting to the
32 Department of Justice and the Federal Bureau of Investigation,
33 through the Department of Justice, for a state and federal level
34 criminal offender record information search, or to comply with
35 paragraph (1) of subdivision (h). A foster family home licensee's
36 or a foster family agency's failure to either prohibit the
37 employment, residence, or initial presence of a person specified
38 in subdivision (b) who is not exempt from fingerprinting and who
39 has not received either a criminal record clearance or an exemption
40 from disqualification pursuant to subdivision (g), or comply with

1 paragraph (1) of subdivision (h), as required in this section, shall
2 result in a citation of a deficiency, and the immediate civil penalties
3 of one hundred dollars (\$100) per violation per day for a maximum
4 of five days, unless the violation is a second or subsequent violation
5 within a 12-month period in which case the civil penalties shall
6 be in the amount of one hundred dollars (\$100) per violation for
7 a maximum of 30 days, and shall be grounds for disciplining the
8 licensee pursuant to Section 1550. A violation of the regulation
9 adopted pursuant to Section 1522.04 shall result in the citation of
10 a deficiency and an immediate assessment of civil penalties in the
11 amount of one hundred dollars (\$100) per violation per day for a
12 maximum of five days, unless the violation is a second or
13 subsequent violation within a 12-month period in which case the
14 civil penalties shall be in the amount of one hundred dollars (\$100)
15 per violation for a maximum of 30 days, and shall be grounds for
16 disciplining the foster family home licensee or the foster family
17 agency pursuant to Section 1550. The State Department of Social
18 Services may assess penalties for continued violations, as permitted
19 by Section 1548. The fingerprint images shall then be submitted
20 to the Department of Justice for processing.

21 (B) Upon request of the licensee, who shall enclose a
22 self-addressed envelope for this purpose, the Department of Justice
23 shall verify receipt of the fingerprints. Within five working days
24 of the receipt of the criminal record or information regarding
25 criminal convictions from the Department of Justice, the
26 department shall notify the applicant of any criminal arrests or
27 convictions. If no arrests or convictions are recorded, the
28 Department of Justice shall provide the foster family home licensee
29 or the foster family agency with a statement of that fact concurrent
30 with providing the information to the State Department of Social
31 Services.

32 (7) If the State Department of Social Services or other approving
33 authority finds that the applicant, or any other person specified in
34 subdivision (b) who is not exempt from fingerprinting, has been
35 convicted of a crime other than a minor traffic violation, the
36 application or presence shall be denied, unless the director grants
37 an exemption from disqualification pursuant to subdivision (g).

38 (8) If the State Department of Social Services or other approving
39 authority finds after licensure or the granting of the certificate of
40 approval that the licensee, certified foster parent, or any other

1 person specified in subdivision (b) who is not exempt from
2 fingerprinting, has been convicted of a crime other than a minor
3 traffic violation, the license or certificate of approval may be
4 revoked by the department or the foster family agency, whichever
5 is applicable, unless the director grants an exemption from
6 disqualification pursuant to subdivision (g). A licensee's failure
7 to comply with the department's prohibition of employment,
8 contact with clients, or presence in the facility as required by
9 paragraph (3) of subdivision (c) shall be grounds for disciplining
10 the licensee pursuant to Section 1550.

11 (e) (1) The State Department of Social Services shall not use
12 a record of arrest to deny, revoke, or terminate any application,
13 license, employment, or residence unless the department
14 investigates the incident and secures evidence, whether or not
15 related to the incident of arrest, that is admissible in an
16 administrative hearing to establish conduct by the person that may
17 pose a risk to the health and safety of any person who is or may
18 become a client.

19 (2) The department shall not issue a criminal record clearance
20 to a person who has been arrested for any crime specified in Section
21 290 of the Penal Code, or for violating Section 245, 273ab, or
22 273.5, or subdivision (b) of Section 273a, of the Penal Code, or,
23 prior to January 1, 1994, paragraph (2) of Section 273a of the Penal
24 Code, or for any crime for which the department is prohibited from
25 granting a criminal record exemption pursuant to subdivision (g),
26 prior to the department's completion of an investigation pursuant
27 to paragraph (1).

28 (3) The State Department of Social Services is authorized to
29 obtain any arrest or conviction records or reports from any law
30 enforcement agency as necessary to the performance of its duties
31 to inspect, license, and investigate community care facilities and
32 individuals associated with a community care facility.

33 (f) (1) For purposes of this section or any other provision of
34 this chapter, a conviction means a plea or verdict of guilty or a
35 conviction following a plea of nolo contendere. Any action that
36 the State Department of Social Services is permitted to take
37 following the establishment of a conviction may be taken when
38 the time for appeal has elapsed, when the judgment of conviction
39 has been affirmed on appeal, or when an order granting probation
40 is made suspending the imposition of sentence, notwithstanding

1 a subsequent order pursuant to Sections 1203.4 and 1203.4a of the
2 Penal Code permitting the person to withdraw his or her plea of
3 guilty and to enter a plea of not guilty, or setting aside the verdict
4 of guilty, or dismissing the accusation, information, or indictment.
5 For purposes of this section or any other provision of this chapter,
6 the record of a conviction, or a copy thereof certified by the clerk
7 of the court or by a judge of the court in which the conviction
8 occurred, shall be conclusive evidence of the conviction. For
9 purposes of this section or any other provision of this chapter, the
10 arrest disposition report certified by the Department of Justice, or
11 documents admissible in a criminal action pursuant to Section
12 969b of the Penal Code, shall be prima facie evidence of the
13 conviction, notwithstanding any other law prohibiting the
14 admission of these documents in a civil or administrative action.

15 (2) For purposes of this section or any other provision of this
16 chapter, the department shall consider criminal convictions from
17 another state or federal court as if the criminal offense was
18 committed in this state.

19 (g) (1) ~~After~~ *Except as otherwise provided in this subdivision*
20 *with respect to a foster care provider applicant or resource family*
21 *applicant, after review of the record, the director may grant an*
22 *exemption from disqualification for a license or special permit as*
23 *specified in paragraph (4) of subdivision (a), or for a license,*
24 *special permit, or certificate of approval as specified in paragraphs*
25 *(4), (7), and (8) of subdivision (d), or for employment, residence,*
26 *or presence in a community care facility as specified in paragraphs*
27 *(3), (4), and (5) of subdivision (c), if the director has substantial*
28 *and convincing evidence to support a reasonable belief that the*
29 *applicant and the person convicted of the crime, if other than the*
30 *applicant, are of good character as to justify issuance of the license*
31 *or special permit or granting an exemption for purposes of*
32 *subdivision (c). Except as otherwise provided in this subdivision,*
33 *an exemption shall not be granted pursuant to this subdivision if*
34 *the conviction was for any either of the following offenses:*

35 (A) (i) An offense specified in Section 220, 243.4, or 264.1,
36 subdivision (a) of Section 273a, or, prior to January 1, 1994,
37 paragraph (1) of Section 273a, Section 273ab, 273d, 288, or 289,
38 subdivision (c) of Section 290, or Section 368, of the Penal Code,
39 or was a conviction of another crime against an individual specified
40 in subdivision (c) of Section 667.5 of the Penal Code.

(ii) Notwithstanding clause (i), the director may grant an exemption regarding the conviction for an offense described in paragraph (1), (2), (7), or (8) of subdivision (c) of Section 667.5 of the Penal Code, if the employee or prospective employee has been rehabilitated as provided in Section 4852.03 of the Penal Code, has maintained the conduct required in Section 4852.05 of the Penal Code for at least 10 years, and has the recommendation of the district attorney representing the employee's county of residence, or if the employee or prospective employee has received a certificate of rehabilitation pursuant to Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3 of the Penal Code. This clause shall not apply to foster care providers, including relative caregivers, nonrelated extended family members, or any other person specified in subdivision (b), in those homes where the individual has been convicted of an offense described in paragraph (1) of subdivision (c) of Section 667.5 of the Penal Code.

(B) A felony offense specified in Section 729 of the Business and Professions Code or Section 206 or 215, subdivision (a) of Section 347, subdivision (b) of Section 417, or subdivision (a) of Section 451 of the Penal Code.

~~(C) Under no circumstances shall an exemption be granted pursuant to this subdivision to any foster~~

(2) (A) *For a foster care provider applicant or a resource family applicant, an exemption shall not be granted if that applicant, or any other person specified in subdivision (b) in those homes, the applicant's home, has a felony conviction for either of the following offenses:*

(i) A felony conviction for child abuse or neglect, spousal abuse, crimes against a child, including child pornography, or for a crime involving violence, including rape, sexual assault, or homicide, *or any offense described in subdivision (c) of Section 667.5 of the Penal Code*, but not including other physical assault and battery. ~~For purposes of this subparagraph, a crime involving violence means a violent crime specified in clause (i) of subparagraph (A), or subparagraph (B).~~

(ii) A felony conviction, within the last five years, for physical assault, battery, or a drug- or alcohol-related offense.

(iii) This subparagraph shall not apply to licenses or approvals wherein a caregiver was granted an exemption to a criminal

1 conviction described in clause (i) or (ii) prior to the enactment of
2 this subparagraph.

3 (iv) This subparagraph shall remain operative only to the extent
4 that compliance with its provisions is required by federal law as
5 a condition for receiving funding under Title IV-E of the federal
6 Social Security Act (42 U.S.C. Sec. 670 et seq.).

7 *(B) If a foster care provider applicant, resource family*
8 *applicant, or any other person specified in subdivision (b) in the*
9 *applicant's home has been convicted of any of the following*
10 *offenses, except when that offense is also described in*
11 *subparagraph (A), the department shall determine whether to grant*
12 *an exemption:*

13 *(i) Any felony or misdemeanor conviction for willful harm or*
14 *injury to a child as defined in Section 273a of the Penal Code,*
15 *elder abuse as defined by Section 368 of the Penal Code, sexual*
16 *abuse or exploitation by a licensed professional as defined by*
17 *Section 729 of the Business and Professions Code, any offense*
18 *involving child sexual abuse, assault, or exploitation, as defined*
19 *in Section 11165.1 of the Penal Code, or any offense for which*
20 *registration is required pursuant to subdivision (c) of Section 290*
21 *of the Penal Code.*

22 *(ii) Any misdemeanor conviction within the last five years.*

23 *(iii) Any felony conviction within the last seven years.*

24 *(C) If a foster care provider applicant, resource family*
25 *applicant, or any other person specified in subdivision (b) in the*
26 *applicant's home has been convicted of an offense not listed in*
27 *subparagraph (A) or (B), the criminal history shall be considered*
28 *as part of the foster care provider licensing process or resource*
29 *family approval process.*

30 *(D) This paragraph shall not apply to licenses or approvals for*
31 *which a caregiver was granted an exemption for a criminal*
32 *conviction described in subparagraph (A) prior to the effective*
33 *date of the act that added this subparagraph.*

34 *(3) In determining whether to grant an exemption, the*
35 *department shall consider all reasonably available information,*
36 *including, but not limited to, the following:*

37 *(i) The nature of the crime or crimes.*

38 *(ii) The period of time since the crime was committed.*

39 *(iii) The number of offenses.*

1 (iv) *Circumstances surrounding the commission of the crime*
2 *indicating the likelihood of future criminal activity.*

3 (v) *Activities since conviction, including employment,*
4 *participation in therapy, education, or treatment.*

5 (vi) *Whether the person convicted has successfully completed*
6 *probation or parole, obtained a certificate of rehabilitation, or*
7 *been granted a pardon by the Governor.*

8 (vii) *Any character references or other evidence submitted by*
9 *the applicant.*

10 (viii) *Whether the person convicted demonstrated honesty and*
11 *truthfulness concerning the crime or crimes during the application*
12 *and approval process and made reasonable efforts to assist the*
13 *department in obtaining records and documents concerning the*
14 *crime or crimes.*

15 ~~(2)~~

16 (4) The department shall not prohibit a person from being
17 employed or having contact with clients in a facility on the basis
18 of a denied criminal record exemption request or arrest information
19 unless the department complies with the requirements of Section
20 1558.

21 (h) (1) For purposes of compliance with this section, the
22 department may permit an individual to transfer a current criminal
23 record clearance, as defined in subdivision (a), from one facility
24 to another, as long as the criminal record clearance has been
25 processed through a state licensing district office, and is being
26 transferred to another facility licensed by a state licensing district
27 office. The request shall be in writing to the State Department of
28 Social Services, and shall include a copy of the person's driver's
29 license or valid identification card issued by the Department of
30 Motor Vehicles, or a valid photo identification issued by another
31 state or the United States government if the person is not a
32 California resident. Upon request of the licensee, who shall enclose
33 a self-addressed envelope for this purpose, the State Department
34 of Social Services shall verify whether the individual has a
35 clearance that can be transferred.

36 (2) The State Department of Social Services shall hold criminal
37 record clearances in its active files for a minimum of three years
38 after an employee is no longer employed at a licensed facility in
39 order for the criminal record clearance to be transferred.

1 (3) The following shall apply to a criminal record clearance or
2 exemption from the department or a county office with
3 department-delegated licensing authority:

4 (A) A county office with department-delegated licensing
5 authority may accept a clearance or exemption from the
6 department.

7 (B) The department may accept a clearance or exemption from
8 any county office with department-delegated licensing authority.

9 (C) A county office with department-delegated licensing
10 authority may accept a clearance or exemption from any other
11 county office with department-delegated licensing authority.

12 (4) With respect to notifications issued by the Department of
13 Justice pursuant to Section 11105.2 of the Penal Code concerning
14 an individual whose criminal record clearance was originally
15 processed by the department or a county office with
16 department-delegated licensing authority, all of the following shall
17 apply:

18 (A) The Department of Justice shall process a request from the
19 department or a county office with department-delegated licensing
20 authority to receive the notice only if all of the following conditions
21 are met:

22 (i) The request shall be submitted to the Department of Justice
23 by the agency to be substituted to receive the notification.

24 (ii) The request shall be for the same applicant type as the type
25 for which the original clearance was obtained.

26 (iii) The request shall contain all prescribed data elements and
27 format protocols pursuant to a written agreement between the
28 department and the Department of Justice.

29 (B) (i) On or before January 7, 2005, the department shall notify
30 the Department of Justice of all county offices that have
31 department-delegated licensing authority.

32 (ii) The department shall notify the Department of Justice within
33 15 calendar days of the date on which a new county office receives
34 department-delegated licensing authority or a county's delegated
35 licensing authority is rescinded.

36 (C) The Department of Justice shall charge the department, a
37 county office with department-delegated licensing authority, or a
38 county child welfare agency with criminal record clearance and
39 exemption authority, a fee for each time a request to substitute the

1 recipient agency is received for purposes of this paragraph. This
2 fee shall not exceed the cost of providing the service.

3 (5) (A) A county child welfare agency with authority to secure
4 clearances pursuant to Section 16504.5 of the Welfare and
5 Institutions Code and to grant exemptions pursuant to Section
6 361.4 of the Welfare and Institutions Code may accept a clearance
7 or exemption from another county with criminal record and
8 exemption authority pursuant to these sections.

9 (B) With respect to notifications issued by the Department of
10 Justice pursuant to Section 11105.2 of the Penal Code concerning
11 an individual whose criminal record clearance was originally
12 processed by a county child welfare agency with criminal record
13 clearance and exemption authority, the Department of Justice shall
14 process a request from a county child welfare agency with criminal
15 record and exemption authority to receive the notice only if all of
16 the following conditions are met:

17 (i) The request shall be submitted to the Department of Justice
18 by the agency to be substituted to receive the notification.

19 (ii) The request shall be for the same applicant type as the type
20 for which the original clearance was obtained.

21 (iii) The request shall contain all prescribed data elements and
22 format protocols pursuant to a written agreement between the State
23 Department of Social Services and the Department of Justice.

24 (i) The full criminal record obtained for purposes of this section
25 may be used by the department or by a licensed adoption agency
26 as a clearance required for adoption purposes.

27 (j) If a licensee or facility is required by law to deny employment
28 or to terminate employment of any employee based on written
29 notification from the state department that the employee has a prior
30 criminal conviction or is determined unsuitable for employment
31 under Section 1558, the licensee or facility shall not incur civil
32 liability or unemployment insurance liability as a result of that
33 denial or termination.

34 (k) The State Department of Social Services may charge a fee
35 for the costs of processing electronic fingerprint images and related
36 information.

37 (l) Amendments to this section made in the 1999 portion of the
38 1999–2000 Regular Session shall be implemented commencing
39 60 days after the effective date of the act amending this section in
40 the 1999 portion of the 1999–2000 Regular Session, except that

1 those provisions for the submission of fingerprints for searching
2 the records of the Federal Bureau of Investigation shall be
3 implemented 90 days after the effective date of that act.

4 *SEC. 3. Section 309 of the Welfare and Institutions Code is*
5 *amended to read:*

6 309. (a) Upon delivery to the social worker of a child who has
7 been taken into temporary custody under this article, the social
8 worker shall immediately investigate the circumstances of the child
9 and the facts surrounding the child's being taken into custody and
10 attempt to maintain the child with the child's family through the
11 provision of services. The social worker shall immediately release
12 the child to the custody of the child's parent, guardian, or
13 responsible relative, regardless of the parent's, guardian's, or
14 relative's immigration status, unless one or more of the following
15 conditions exist:

16 (1) The child has no parent, guardian, or responsible relative;
17 or the child's parent, guardian, or responsible relative is not willing
18 to provide care for the child.

19 (2) Continued detention of the child is a matter of immediate
20 and urgent necessity for the protection of the child and there are
21 no reasonable means by which the child can be protected in his or
22 her home or the home of a responsible relative.

23 (3) There is substantial evidence that a parent, guardian, or
24 custodian of the child is likely to flee the jurisdiction of the court.

25 (4) The child has left a placement in which he or she was placed
26 by the juvenile court.

27 (5) The parent or other person having lawful custody of the
28 child voluntarily surrendered physical custody of the child pursuant
29 to Section 1255.7 of the Health and Safety Code and did not
30 reclaim the child within the 14-day period specified in subdivision
31 (e) of that section.

32 (b) In any case in which there is reasonable cause for believing
33 that a child who is under the care of a physician and surgeon or a
34 hospital, clinic, or other medical facility and cannot be immediately
35 moved and is a person described in Section 300, the child shall be
36 deemed to have been taken into temporary custody and delivered
37 to the social worker for the purposes of this chapter while the child
38 is at the office of the physician and surgeon or the medical facility.

39 (c) If the child is not released to his or her parent or guardian,
40 the child shall be deemed detained for purposes of this chapter.

(d) (1) If an able and willing relative, as defined in Section 319, or an able and willing nonrelative extended family member, as defined in Section 362.7, is available and requests temporary placement of the child pending the detention hearing, or after the detention hearing and pending the dispositional hearing conducted pursuant to Section 358, the county welfare department shall initiate an assessment of the relative's or nonrelative extended family member's suitability, which shall include an in-home inspection to assess the safety of the home and the ability of the relative or nonrelative extended family member to care for the child's needs, and a consideration of the results of a criminal records check conducted pursuant to subdivision (a) of Section 16504.5 and a check of allegations of prior child abuse or neglect concerning the relative or nonrelative extended family member and other adults in the home. A relative's identification card from a foreign consulate or foreign passport shall be considered a valid form of identification for conducting a criminal records check and fingerprint clearance check under this subdivision. Upon completion of this assessment, the child may be placed in the assessed home. For purposes of this paragraph, and except for the criminal records check conducted pursuant to subdivision (a) of Section 16504.5, the standards used to determine suitability shall be the same standards set forth in the regulations for the licensing of foster family homes.

(2) Immediately following the placement of a child in the home of a relative or a nonrelative extended family member, the county welfare department shall evaluate and approve or deny the home for purposes of AFDC-FC eligibility pursuant to Section 11402. The standards used to evaluate and grant or deny approval of the home of the relative and of the home of a nonrelative extended family member, as described in Section 362.7, shall be the same standards set forth in regulations for the licensing of foster family homes which prescribe standards of safety and sanitation for the physical plant and standards for basic personal care, supervision, and services provided by the caregiver.

(3) To the extent allowed by federal law, as a condition of receiving funding under Title IV-E of the federal Social Security Act (42 U.S.C. Sec. 670 et seq.), if a relative or nonrelative extended family member meets all other conditions for approval, except for the receipt of the Federal Bureau of Investigation's

1 criminal history information for the relative or nonrelative extended
2 family member, and other adults in the home, as indicated, the
3 county welfare department may approve the home and document
4 that approval, if the relative or nonrelative extended family
5 member, and each adult in the home, has signed and submitted a
6 statement that he or she has never been convicted of a crime in the
7 United States, other than a traffic infraction as defined in paragraph
8 (1) of subdivision (a) of Section 42001 of the Vehicle Code. If,
9 after the approval has been granted, the department determines
10 that the relative or nonrelative extended family member or other
11 adult in the home has a criminal record, the approval may be
12 terminated.

13 (4) (A) If the criminal records check indicates that the person
14 has been convicted of a crime for which the Director of Social
15 Services cannot grant an exemption under Section 1522 of the
16 Health and Safety Code, the child shall not be placed in the home.
17 If the criminal records check indicates that the person has been
18 convicted of a crime for which the Director of Social Services may
19 grant an exemption under Section 1522 of the Health and Safety
20 Code, the child shall not be placed in the home unless a criminal
21 records exemption has been granted by the county based on
22 substantial and convincing evidence to support a reasonable belief
23 that the person with the criminal conviction is of such good
24 character as to justify the placement and not present a risk of harm
25 to the child. *an offense described in subparagraph (A) of paragraph
26 (2) of subdivision (g) of Section 1522 of the Health and Safety
27 Code, the child shall not be placed in the home.*

28 (B) (i) *If the criminal records check indicates that the person
29 has been convicted of an offense described in subparagraph (B)
30 of paragraph (2) of subdivision (g) of Section 1522 of the Health
31 and Safety Code, the child shall not be placed in the home unless
32 a criminal records exemption has been granted under Section 1522
33 of the Health and Safety Code.*

34 (ii) *Notwithstanding clause (i), a child may be placed with a
35 relative or nonrelative extended family member pending a criminal
36 records exemption if all parties agree that the placement is in the
37 best interests of the child. If a child has been residing in the home
38 of a relative or nonrelative extended family member pursuant to
39 this clause, that fact shall be taken into account when determining*

1 *whether the grant a criminal records exemption under Section*
2 *1522 of the Health and Safety Code.*

3 *(C) If the criminal records check indicates that the person has*
4 *been convicted of any offense other than an offense described in*
5 *subparagraph (A) or (B) of paragraph (2) of subdivision (g) of*
6 *Section 1522 of the Health and Safety Code, the county social*
7 *worker and the court shall consider the criminal history in*
8 *determining whether the placement is in the best interests of the*
9 *child.*

10 *(D) If the criminal records check indicates that the person has*
11 *been arrested for any offense described in paragraph (2) of*
12 *subdivision (e) of Section 1522 of the Health and Safety Code, the*
13 *child shall not be placed in the home until the investigation*
14 *required by paragraph (1) of subdivision (e) of Section 1522 of*
15 *the Health and Safety Code has been completed and the county*
16 *social worker and the court have considered the investigation*
17 *results when determining whether the placement is in the best*
18 *interests of the child.*

19 *(e) (1) If the child is removed, the social worker shall conduct,*
20 *within 30 days, an investigation in order to identify and locate all*
21 *grandparents, parents of a sibling of the child, if the parent has*
22 *legal custody of the sibling, adult siblings, and other adult relatives*
23 *of the child, as defined in paragraph (2) of subdivision (f) of*
24 *Section 319, including any other adult relatives suggested by the*
25 *parents. As used in this section, “sibling” means a person related*
26 *to the identified child by blood, adoption, or affinity through a*
27 *common legal or biological parent. The social worker shall provide*
28 *to all adult relatives who are located, except when that relative’s*
29 *history of family or domestic violence makes notification*
30 *inappropriate, within 30 days of removal of the child, written*
31 *notification and shall also, whenever appropriate, provide oral*
32 *notification, in person or by telephone, of all the following*
33 *information:*

34 *(A) The child has been removed from the custody of his or her*
35 *parent or parents, or his or her guardians.*

36 *(B) An explanation of the various options to participate in the*
37 *care and placement of the child and support for the child’s family,*
38 *including any options that may be lost by failing to respond. The*
39 *notice shall provide information about providing care for the child*
40 *while the family receives reunification services with the goal of*

1 returning the child to the parent or guardian, how to become a
2 foster family home or approved relative or nonrelative extended
3 family member as defined in Section 362.7, and additional services
4 and support that are available in out-of-home placements. The
5 notice shall also include information regarding the Kin-GAP
6 Program (Article 4.5 (commencing with Section 11360) of Chapter
7 2 of Part 3 of Division 9), the CalWORKs program for approved
8 relative caregivers (Chapter 2 (commencing with Section 11200)
9 of Part 3 of Division 9), adoption, and adoption assistance (Chapter
10 2.1 (commencing with Section 16115) of Part 4 of Division 9), as
11 well as other options for contact with the child, including, but not
12 limited to, visitation. The State Department of Social Services, in
13 consultation with the County Welfare Directors Association of
14 California and other interested stakeholders, shall develop the
15 written notice.

16 (2) The social worker shall also provide the adult relatives
17 notified pursuant to paragraph (1) with a relative information form
18 to provide information to the social worker and the court regarding
19 the needs of the child. The form shall include a provision whereby
20 the relative may request the permission of the court to address the
21 court, if the relative so chooses. The Judicial Council, in
22 consultation with the State Department of Social Services and the
23 County Welfare Directors Association of California, shall develop
24 the form.

25 (3) The social worker shall use due diligence in investigating
26 the names and locations of the relatives pursuant to paragraph (1),
27 including, but not limited to, asking the child in an age-appropriate
28 manner about relatives important to the child, consistent with the
29 child's best interest, and obtaining information regarding the
30 location of the child's adult relatives. Each county welfare
31 department shall create and make public a procedure by which
32 relatives of a child who has been removed from his or her parents
33 or guardians may identify themselves to the county welfare
34 department and be provided with the notices required by paragraphs
35 (1) and (2).

36 *SEC. 4. Section 361.4 of the Welfare and Institutions Code is*
37 *amended to read:*

38 361.4. (a) Prior to placing a child in the home of a relative, or
39 the home of any prospective guardian or other person who is not

1 a licensed or certified foster parent, the county social worker shall
2 visit the home to ascertain the appropriateness of the placement.

3 (b) (1) Whenever a child may be placed in the home of a
4 relative, or the home of any prospective guardian or other person
5 who is not a licensed or certified foster parent, the court or county
6 social worker placing the child shall cause a state-level criminal
7 records check to be conducted by an appropriate government
8 agency through the California Law Enforcement
9 Telecommunications System (CLETS) pursuant to Section 16504.5.

10 The criminal records check shall be conducted with regard to all
11 persons over 18 years of age living in the home, and on any other
12 person over 18 years of age, other than professionals providing
13 professional services to the child, known to the placing entity who
14 may have significant contact with the child, including any person
15 who has a familial or intimate relationship with any person living
16 in the home. A criminal records check may be conducted pursuant
17 to this section on any person over 14 years of age living in the
18 home who the county social worker believes may have a criminal
19 record. Within 10 calendar days following the criminal records
20 check conducted through the California Law Enforcement
21 Telecommunications System, the social worker shall ensure that
22 a fingerprint clearance check of the relative and any other person
23 whose criminal record was obtained pursuant to this subdivision
24 is initiated through the Department of Justice to ensure the accuracy
25 of the criminal records check conducted through the California
26 Law Enforcement Telecommunications System and shall review
27 the results of any criminal records check to assess the safety of the
28 home. The Department of Justice shall forward fingerprint requests
29 for federal-level criminal history information to the Federal Bureau
30 of Investigation pursuant to this section.

31 (2) An identification card from a foreign consulate or foreign
32 passport shall be considered a valid form of identification for
33 conducting a criminal records check and fingerprint clearance
34 check under this subdivision and under subdivision (c).

35 (c) Whenever a child may be placed in the home of a relative,
36 or a prospective guardian or other person who is not a licensed or
37 certified foster parent, the county social worker shall cause a check
38 of the Child Abuse Central Index pursuant to subdivision (a) of
39 Section 11170 of the Penal Code to be requested from the
40 Department of Justice. The Child Abuse Central Index check shall

1 be conducted on all persons over 18 years of age living in the
2 home. For any application received on or after January 1, 2008, if
3 any person in the household is 18 years of age or older and has
4 lived in another state in the preceding five years, the county social
5 worker shall check the other state's child abuse and neglect registry
6 to the extent required by federal law.

7 (d) (1) If the results of the California and federal criminal
8 records check indicates that the person has no criminal record, the
9 county social worker and court may consider the home of the
10 relative, prospective guardian, or other person who is not a licensed
11 or certified foster parent for placement of a child.

12 (2) (A) ~~If the criminal records check indicates that the person~~
13 ~~has been convicted of a crime that the Director of Social Services~~
14 ~~cannot grant an exemption for under Section 1522 of the Health~~
15 ~~and Safety Code, the child shall not be placed in the home. If the~~
16 ~~criminal records check indicates that the person has been convicted~~
17 ~~of a crime that the Director of Social Services may grant an~~
18 ~~exemption for under Section 1522 of the Health and Safety Code,~~
19 ~~the child shall not be placed in the home unless a criminal records~~
20 ~~exemption has been granted by the county, based on substantial~~
21 ~~and convincing evidence to support a reasonable belief that the~~
22 ~~person with the criminal conviction is of such good character as~~
23 ~~to justify the placement and not present a risk of harm to the child~~
24 ~~pursuant to paragraph (3): an offense described in subparagraph~~
25 ~~(A) of paragraph (2) of subdivision (g) of Section 1522 of the~~
26 ~~Health and Safety Code, the child shall not be placed in the home.~~

27 (B) (i) *If the criminal records check indicates that the person*
28 *has been convicted of an offense described in subparagraph (B)*
29 *of paragraph (2) of subdivision (g) of Section 1522 of the Health*
30 *and Safety Code, the child shall not be placed in the home unless*
31 *a criminal records exemption has been granted under Section 1522*
32 *of the Health and Safety Code.*

33 (ii) *Notwithstanding clause (i), a child may be placed with a*
34 *relative or nonrelative extended family member pending a criminal*
35 *records exemption if all parties agree that the placement is in the*
36 *best interests of the child. If a child has been residing in the home*
37 *of a relative or nonrelative extended family member pursuant to*
38 *this clause, that fact shall be taken into account when determining*
39 *whether the grant a criminal records exemption under Section*
40 *1522 of the Health and Safety Code.*

1 (C) If the criminal records check indicates that the person has
2 been convicted of any offense other than an offense described in
3 subparagraph (A) or (B) of paragraph (2) of subdivision (g) of
4 Section 1522 of the Health and Safety Code, the social worker and
5 the court shall consider the criminal history in determining whether
6 the placement is in the best interests of the child.

7 (D) If the criminal records check indicates that the person has
8 been arrested for any offense described in paragraph (2) of
9 subdivision (e) of Section 1522 of the Health and Safety Code, the
10 child shall not be placed in the home until the investigation
11 required by paragraph (1) of subdivision (e) of Section 1522 of
12 the Health and Safety Code has been completed and the county
13 social worker and the court have considered the investigation
14 results when determining whether the placement is in the best
15 interests of the child.

16 (3) (A) A county may issue a criminal records exemption only
17 if that county has been granted permission by the Director of Social
18 Services to issue criminal records exemptions. The county may
19 file a request with the Director of Social Services seeking
20 permission for the county to establish a procedure to evaluate and
21 grant appropriate individual criminal records exemptions for
22 persons described in subdivision (b). The director shall grant or
23 deny the county's request within 14 days of receipt. The county
24 shall evaluate individual criminal records in accordance with the
25 standards and limitations set forth in ~~paragraph (1) of subdivision~~
26 (g) of Section 1522 of the Health and Safety Code, and in no event
27 shall the county place a child in the home of a person who is
28 ineligible for an exemption under that provision.

29 (B) The department shall monitor county implementation of the
30 authority to grant an exemption under this paragraph to ensure that
31 the county evaluates individual criminal records and allows or
32 disallows placements according to the standards set forth in
33 ~~paragraph (1) of subdivision (g) of Section 1522 of the Health and~~
34 Safety Code.

35 (4) The department shall conduct an evaluation of the
36 implementation of paragraph (3) through random sampling of
37 county exemption decisions.

38 (5) The State Department of Social Services shall not evaluate
39 or grant criminal records exemption requests for persons described

1 in subdivision (b), unless the exemption request is made by an
2 Indian tribe pursuant to subdivision (f).

3 (6) If a county has not requested, or has not been granted,
4 permission by the State Department of Social Services to establish
5 a procedure to evaluate and grant criminal records exemptions,
6 the county shall not place a child into the home of a person
7 described in subdivision (b) if any person residing in the home has
8 been convicted of a crime other than a minor traffic violation,
9 except as provided in subdivision (f).

10 (e) Nothing in this section shall preclude a county from
11 conducting a criminal background check that the county is
12 otherwise authorized to conduct using fingerprints.

13 (f) The State Department of Social Services shall evaluate a
14 request from an Indian tribe to exempt a crime that is ~~exemptible~~
15 *eligible for exemption* under Section 1522 of the Health and Safety
16 Code, if needed, to allow placement into an Indian home that the
17 tribe has designated for placement under the federal Indian Child
18 Welfare Act (25 U.S.C. Sec. 1901 et seq.). However, if the county
19 with jurisdiction over the child that is the subject of the tribe's
20 request has established an approved procedure pursuant to
21 paragraph (3) of subdivision (d), the tribe may request that the
22 county evaluate the exemption request. Once a tribe has elected
23 to have the exemption request reviewed by either the State
24 Department of Social Services or the county, the exemption
25 decision may only be made by that entity. Nothing in this
26 subdivision limits the duty of a county social worker to evaluate
27 the home for placement or to gather information needed to evaluate
28 an exemption request.

29 *SEC. 5. Section 16519.5 of the Welfare and Institutions Code*
30 *is amended to read:*

31 16519.5. (a) The State Department of Social Services, in
32 consultation with county child welfare agencies, foster parent
33 associations, and other interested community parties, shall
34 implement a unified, family friendly, and child-centered resource
35 family approval process to replace the existing multiple processes
36 for licensing foster family homes, approving relatives and
37 nonrelative extended family members as foster care providers, and
38 approving adoptive families.

39 (b) (1) Counties shall be selected to participate on a voluntary
40 basis as early implementation counties for the purpose of

1 participating in the initial development of the approval process.
2 Early implementation counties shall be selected according to
3 criteria developed by the department in consultation with the
4 County Welfare Directors Association. In selecting the five early
5 implementation counties, the department shall promote diversity
6 among the participating counties in terms of size and geographic
7 location.

8 (2) Additional counties may participate in the early
9 implementation of the program upon authorization by the
10 department.

11 (c) (1) For the purposes of this chapter, “resource family” means
12 an individual or couple that a participating county or foster family
13 agency, as defined in subdivision (g) of Section 11400 of this code,
14 and paragraph (4) of subdivision (a) of Section 1502 of the Health
15 and Safety Code, determines to have successfully met both the
16 home environment assessment standards and the permanency
17 assessment criteria adopted pursuant to subdivision (d) necessary
18 for providing care for a related or unrelated child who is under the
19 jurisdiction of the juvenile court, or otherwise in the care of a
20 county child welfare agency or probation department. A resource
21 family shall demonstrate all of the following:

22 (A) An understanding of the safety, permanence, and well-being
23 needs of children who have been victims of child abuse and neglect,
24 and the capacity and willingness to meet those needs, including
25 the need for protection, and the willingness to make use of support
26 resources offered by the agency, or a support structure in place,
27 or both.

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

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

35 (D) The financial ability within the household to ensure the
36 stability and financial security of the family.

37 (E) An ability and willingness to provide a family setting that
38 promotes normal childhood experiences that serves the needs of
39 the child.

(2) Subsequent to meeting the criteria set forth in this subdivision and designation as a resource family, a resource family shall be considered eligible to provide foster care for related and unrelated children in out-of-home placement, shall be considered approved for adoption or guardianship, and shall not have to undergo any additional approval or licensure as long as the family lives in a county participating in the program.

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

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

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

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

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

(A) (i) (I) Criminal records clearance of all adults residing in, or regularly present in, the home, and not exempted from fingerprinting, as set forth in subdivision (b) of Section 1522 of the Health and Safety Code, pursuant to Section 8712 of the Family

1 Code, utilizing a check of the Child Abuse Central Index (CACI),
2 and receipt of a fingerprint-based state and federal criminal
3 offender record information search response. The criminal history
4 information shall include subsequent notifications pursuant to
5 Section 11105.2 of the Penal Code.

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

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

25 *(II) If the criminal records check indicates that the person has*
26 *been convicted of an offense described in subparagraph (A) of*
27 *paragraph (2) of subdivision (g) of Section 1522 of the Health and*
28 *Safety Code, home approval shall be denied.*

29 *(III) If the criminal records check indicates that the person has*
30 *been convicted of an offense described in subparagraph (B) of*
31 *paragraph (2) of subdivision (g) of Section 1522 of the Health and*
32 *Safety Code, the child shall not be placed in the home unless a*
33 *criminal records exemption has been granted under subclause (V).*

34 *(IV) If the criminal records check indicates that the person has*
35 *been convicted of any crime other than a crime described in*
36 *subclause (II) or (III), the criminal history shall be considered in*
37 *the psychosocial assessment conducted pursuant to subparagraph*
38 *(B) of paragraph (2) in determining whether to approve the home.*

39 *(V) Exemptions from the criminal records clearance*
40 *requirements set forth in this section may be granted by the director*

1 *or the early implementation county, if that county has been granted*
2 *permission by the director to issue criminal records exemptions*
3 *pursuant to Section 361.4, using the exemption criteria currently*
4 *used for foster care licensing as specified in subdivision (g) of*
5 *Section 1522 of the Health and Safety Code.*

6 ~~(iv)~~

7 (ii) For public foster family agencies approving resource
8 families, the criminal records clearance process set forth in clause
9 (i) shall be utilized.

10 ~~(v)~~

11 (iii) For private foster family agencies approving resource
12 families, the criminal records clearance process set forth in clause
13 (i) shall be utilized, but the Department of Justice shall disseminate
14 a fitness determination resulting from the federal criminal offender
15 record information search.

16 (B) *Consideration of any substantiated allegations of child*
17 *abuse or neglect against either the applicant or any other adult*
18 *residing in the home.*

19 ~~(B)~~

20 (C) Buildings and grounds and storage requirements set forth
21 in Sections 89387 and 89387.2 of Title 22 of the California Code
22 of Regulations.

23 ~~(C)~~

24 (D) In addition to the foregoing requirements, the resource
25 family home environment assessment standards shall also require
26 the following:

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

30 (ii) That the total number of children residing in the home of a
31 resource family shall be no more than the total number of children
32 the resource family can properly care for, regardless of status, and
33 shall not exceed six children, unless exceptional circumstances
34 that are documented in the foster child's case file exist to permit
35 a resource family to care for more children, including, but not
36 limited to, the need to place siblings together.

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

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

3 (A) The applicant shall complete caregiver training.

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

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

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

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

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

19 (3) If additional time is needed to complete the permanency
20 assessment, the county shall document the extenuating
21 circumstances for the delay and generate a timeframe for the
22 completion of the permanency assessment.

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

27 (5) A child may be placed with a relative, as defined in Section
28 319, or nonrelative extended family member, as defined in Section
29 362.7, prior to applying as a resource family only on an emergency
30 basis if all of the following requirements are met:

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

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

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

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

5 (E) For any placement made pursuant to this paragraph,
6 AFDC-FC funding shall not be available until approval of the
7 resource family has been completed.

8 (F) Any child placed under this section shall be afforded all the
9 rights set forth in Section 16001.9.

10 (f) The State Department of Social Services shall be responsible
11 for all of the following:

12 (1) Selecting early implementation counties, based on criteria
13 established by the department in consultation with the County
14 Welfare Directors Association.

15 (2) Establishing timeframes for participating counties to submit
16 an implementation plan, enter into terms and conditions for
17 participation in the program, train appropriate staff, and accept
18 applications from resource families.

19 (3) Entering into terms and conditions for participation in the
20 program by counties.

21 (4) Administering the program through the issuance of written
22 directives that shall have the same force and effect as regulations.
23 Any directive affecting Article 1 (commencing with Section 700)
24 of Chapter 7 of Title 11 of the California Code of Regulations shall
25 be approved by the Department of Justice. The directives shall be
26 exempt from the rulemaking provisions of the Administrative
27 Procedure Act (Chapter 3.5 (commencing with Section 11340))
28 of Part 1 of Division 3 of Title 2 of the Government Code.

29 (5) Approving and requiring the use of a single standard for
30 resource family approval.

31 (6) Adopting and requiring the use of standardized
32 documentation for the home environment and permanency
33 assessments of resource families.

34 (7) Requiring counties to monitor resource families including,
35 but not limited to, all of the following:

36 (A) Investigating complaints of resource families.

37 (B) Developing and monitoring resource family corrective action
38 plans to correct identified deficiencies and to rescind resource
39 family approval if compliance with corrective action plans is not
40 achieved.

1 (8) Ongoing oversight and monitoring of county systems and
2 operations including all of the following:

3 (A) Reviewing the county's implementation of the program.

4 (B) Reviewing an adequate number of approved resource
5 families in each participating county to ensure that approval
6 standards are being properly applied. The review shall include
7 case file documentation, and may include onsite inspection of
8 individual resource families. The review shall occur on an annual
9 basis, and more frequently if the department becomes aware that
10 a participating county is experiencing a disproportionate number
11 of complaints against individual resource family homes.

12 (C) Reviewing county reports of serious complaints and
13 incidents involving approved resource families, as determined
14 necessary by the department. The department may conduct an
15 independent review of the complaint or incident and change the
16 findings depending on the results of its investigation.

17 (D) Investigating unresolved complaints against participating
18 counties.

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

21 (9) Updating the Legislature on the early implementation phase
22 of the program, including the status of implementation, successes,
23 and challenges during the early implementation phase, and relevant
24 available data, including resource family satisfaction.

25 (10) Implementing due process procedures, including all of the
26 following:

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

29 (B) Amending the department's applicable state hearing
30 procedures and regulations or using the Administrative Procedure
31 Act, when applicable, as necessary for the administration of the
32 program.

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

35 (1) Submitting an implementation plan, entering into terms and
36 conditions for participation in the program, consulting with the
37 county probation department in the development of the
38 implementation plan, training appropriate staff, and accepting
39 applications from resource families within the timeframes
40 established by the department.

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

1 action is not completed as specified in the plan, the county may
2 rescind the resource family approval.

3 (C) Requiring resource families to report to the county child
4 welfare agency any incidents consistent with the reporting
5 requirements for licensed foster family homes.

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

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

16 (B) Upon conclusion of the complaint investigation, the final
17 disposition shall be reviewed and approved by a supervising staff
18 member.

19 (C) The department shall be notified of any serious incidents
20 or serious complaints or any incident that falls within the definition
21 of Section 11165.5 of the Penal Code. If those incidents or
22 complaints result in an investigation, the department shall also be
23 notified as to the status and disposition of that investigation.

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

25 (10) Assessing county performance in related areas of the
26 California Child and Family Services Review System, and
27 remedying problems identified.

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

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

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

1 (M) A resource family's responsibility to act as a reasonable
2 and prudent parent, and to provide a family setting that promotes
3 normal childhood experiences and that serves the needs of the
4 child.

5 (N) An overview of the specialized training identified in
6 subdivision (h).

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

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

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

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

19 (3) Understanding the requirements and best practices regarding
20 psychotropic medications, including, but not limited to, court
21 authorization, benefits, uses, side effects, interactions, assistance
22 with self-administration, misuse, documentation, storage, and
23 metabolic monitoring of children prescribed psychotropic
24 medications.

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

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

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

36 (7) Understanding the different permanency options and the
37 services and benefits associated with the options.

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

1 (j) (1) Approved relatives and nonrelative extended family
2 members, licensed foster family homes, or approved adoptive
3 homes that have completed the license or approval process prior
4 to full implementation of the program shall not be considered part
5 of the program. The otherwise applicable assessment and oversight
6 processes shall continue to be administered for families and
7 facilities not included in the program.

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

12 (k) The department may waive regulations that pose a barrier
13 to implementation and operation of this program. The waiver of
14 any regulations by the department pursuant to this section shall
15 apply to only those counties or foster family agencies participating
16 in the program and only for the duration of the program.

17 (l) Resource families approved under initial implementation of
18 the program, who move within an early implementation county or
19 who move to another early implementation county, shall retain
20 their resource family status if the new building and grounds,
21 outdoor activity areas, and storage areas meet home environment
22 standards. The State Department of Social Services or early
23 implementation county may allow a program-affiliated individual
24 to transfer his or her subsequent arrest notification if the individual
25 moves from one early implementation county to another early
26 implementation county, as specified in subdivision (g) of Section
27 1522 of the Health and Safety Code.

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

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

7 (3) A program-affiliated individual who moves to a
8 nonparticipating county may not transfer his or her subsequent
9 arrest notification from a participating county to the
10 nonparticipating county.

11 (n) Implementation of the program shall be contingent upon the
12 continued availability of federal Social Security Act Title IV-E
13 (42 U.S.C. Sec. 670) funds for costs associated with placement of
14 children with resource families assessed and approved under the
15 program.

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

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

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

29 (1) Licensure requirements set forth under the *California*
30 *Community Care Facilities Act*, ~~commencing with Section 1500~~
31 *Act (Chapter 3 (commencing with Section 1500) of Division 2 of*
32 *the Health and Safety Code, Code)*, and all regulations promulgated
33 thereto.

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

37 (3) Adoptions approval and reporting requirements set forth
38 under Section 8712 of the Family Code, and all regulations
39 promulgated thereto.

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

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

7 (A) A detailed description of the resource family approval
8 program.

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

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

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

17 (A) A licensed foster family home, and an approved relative or
18 nonrelative extended family member with an approved adoptive
19 home study completed prior to January 1, 2018, shall be deemed
20 to be an approved resource family.

21 (B) A licensed foster family home, and an approved relative or
22 nonrelative extended family member who had a child in placement
23 at any time, for any length of time, between January 1, 2017, and
24 December 31, 2017, inclusive, may be approved as a resource
25 family on the date of successful completion of a psychosocial
26 assessment pursuant to subparagraph (B) of paragraph (2) of
27 subdivision (d).

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

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

35 (A) All licensed foster family homes that did not have a child
36 in placement at any time, for any length of time, between January
37 1, 2017, and December 31, 2017, inclusive, shall forfeit the license
38 by operation of law on January 1, 2018.

39 (B) For foster family home licensees and approved relatives or
40 nonrelative extended family members who have a pending resource

1 family application on December 31, 2019, the foster family home
2 license or relative and nonrelative extended family member
3 approval shall be forfeited by operation of law on the date of
4 approval as a resource family. If approval is denied, forfeiture by
5 operation of law shall occur on the date of completion of any
6 proceedings required by law to ensure due process.

7 (s) On and after January 1, 2017, all licensed foster family
8 agencies shall approve resource families in lieu of certifying foster
9 homes. A foster family agency or a short-term residential treatment
10 center pursuant to subdivision (b) of Section 11462 shall require
11 applicants and resource families to meet the resource family
12 approval standards and requirements set forth in this chapter and
13 in the written directives adopted pursuant to this chapter prior to
14 approval and in order to maintain approval.

15 (t) ~~Commencing January 1, 2016, the~~ The department may
16 establish participation conditions, and select and authorize foster
17 family agencies that voluntarily submit implementation plans and
18 revised plans of operation in accordance with requirements
19 established by the department, to approve resource families in lieu
20 of certifying foster homes.

21 (1) Notwithstanding any other law, a participating foster family
22 agency shall require resource families to meet and maintain the
23 resource family approval standards and requirements set forth in
24 this chapter and in the written directives adopted hereto prior to
25 approval and in order to maintain approval.

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

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

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

39 *SEC. 6. To the extent that this act has an overall effect of*
40 *increasing the costs already borne by a local agency for programs*

1 *or levels of service mandated by the 2011 Realignment Legislation*
2 *within the meaning of Section 36 of Article XIII of the California*
3 *Constitution, it shall apply to local agencies only to the extent that*
4 *the state provides annual funding for the cost increase. Any new*
5 *program or higher level of service provided by a local agency*
6 *pursuant to this act above the level for which funding has been*
7 *provided shall not require a subvention of funds by the state nor*
8 *otherwise be subject to Section 6 of Article XIII B of the California*
9 *Constitution.*

10 SECTION 1. ~~Section 317 of the Welfare and Institutions Code~~
11 ~~is amended to read:~~

12 ~~317. (a) (1) If appears to the court that a parent or guardian~~
13 ~~of the child desires counsel but is presently financially unable to~~
14 ~~afford and cannot for that reason employ counsel, the court may~~
15 ~~appoint counsel as provided in this section.~~

16 ~~(2) If appears to the court that a parent or Indian custodian in~~
17 ~~an Indian child custody proceeding desires counsel but is presently~~
18 ~~unable to afford and cannot for that reason employ counsel, the~~
19 ~~provisions of Section 1912(b) of Title 25 of the United States Code~~
20 ~~and Section 23.13 of Title 25 of the Code of Federal Regulations~~
21 ~~shall apply.~~

22 ~~(b) If it appears to the court that a parent or guardian of the child~~
23 ~~is presently financially unable to afford and cannot for that reason~~
24 ~~employ counsel, and the child has been placed in out-of-home~~
25 ~~care, or the petitioning agency is recommending that the child be~~
26 ~~placed in out-of-home care, the court shall appoint counsel for the~~
27 ~~parent or guardian, unless the court finds that the parent or guardian~~
28 ~~has made a knowing and intelligent waiver of counsel as provided~~
29 ~~in this section.~~

30 ~~(c) If a child or nonminor dependent is not represented by~~
31 ~~counsel, the court shall appoint counsel for the child or nonminor~~
32 ~~dependent, unless the court finds that the child or nonminor~~
33 ~~dependent would not benefit from the appointment of counsel. The~~
34 ~~court shall state on the record its reasons for that finding. A primary~~
35 ~~responsibility of counsel appointed to represent a child or nonminor~~
36 ~~dependent pursuant to this section shall be to advocate for the~~
37 ~~protection, safety, and physical and emotional well-being of the~~
38 ~~child or nonminor dependent. Counsel may be a district attorney,~~
39 ~~public defender, or other member of the bar, provided that he or~~
40 ~~she does not represent another party or county agency whose~~

1 interests conflict with the child's or nonminor dependent's interests.
2 The fact that the district attorney represents the child or nonminor
3 dependent in a proceeding pursuant to Section 300 as well as
4 conducts a criminal investigation or files a criminal complaint or
5 information arising from the same or reasonably related set of facts
6 as the proceeding pursuant to Section 300 is not in and of itself a
7 conflict of interest. The court may fix the compensation for the
8 services of appointed counsel. The appointed counsel shall have
9 a caseload and training that ensures adequate representation of the
10 child or nonminor dependent. Counsel representing a child or
11 nonminor dependent shall not have a caseload that exceeds 77
12 child or nonminor dependent clients, unless the counsel has the
13 assistance of, at a minimum, a social worker or investigator who
14 is employed on a half-time or greater than half-time basis, in which
15 case the caseload shall not exceed 188 child or nonminor dependent
16 clients. The Judicial Council shall promulgate rules of court that
17 establish training requirements and guidelines for appointed
18 counsel for children and shall adopt rules as required by Section
19 326.5 no later than July 1, 2001. Those training requirements shall
20 include instruction on cultural competency and sensitivity relating
21 to, and best practices for, providing adequate care to lesbian, gay,
22 bisexual, and transgender youth in out-of-home care.

23 (d) Counsel shall represent the parent, guardian, child, or
24 nonminor dependent at the detention hearing and at all subsequent
25 proceedings before the juvenile court. Counsel shall continue to
26 represent the parent, guardian, child, or nonminor dependent unless
27 relieved by the court upon the substitution of other counsel or for
28 cause. The representation shall include representing the parent,
29 guardian, or the child in termination proceedings and in those
30 proceedings relating to the institution or setting aside of a legal
31 guardianship. On and after January 1, 2012, in the case of a
32 nonminor dependent, as described in subdivision (v) of Section
33 11400, no representation by counsel shall be provided for a parent,
34 unless the parent is receiving court-ordered family reunification
35 services.

36 (e) (1) Counsel shall be charged in general with the
37 representation of the child's interests. To that end, counsel shall
38 make or cause to have made any further investigations that he or
39 she deems in good faith to be reasonably necessary to ascertain
40 the facts, including the interviewing of witnesses, and shall

1 examine and cross-examine witnesses in both the adjudicatory and
2 dispositional hearings. Counsel may also introduce and examine
3 his or her own witnesses, make recommendations to the court
4 concerning the child's welfare, and participate further in the
5 proceedings to the degree necessary to adequately represent the
6 child. When counsel is appointed to represent a nonminor
7 dependent, counsel is charged with representing the wishes of the
8 nonminor dependent except when advocating for those wishes
9 conflicts with the protection or safety of the nonminor dependent.
10 If the court finds that a nonminor dependent is not competent to
11 direct counsel, the court shall appoint a guardian ad litem for the
12 nonminor dependent.

13 (2) If the child is four years of age or older, counsel shall
14 interview the child to determine the child's wishes and assess the
15 child's well-being, and shall advise the court of the child's wishes.
16 Counsel shall not advocate for the return of the child if, to the best
17 of his or her knowledge, return of the child conflicts with the
18 protection and safety of the child.

19 (3) Counsel shall investigate the interests of the child beyond
20 the scope of the juvenile proceeding, and report to the court other
21 interests of the child that may need to be protected by the institution
22 of other administrative or judicial proceedings. Counsel
23 representing a child in a dependency proceeding is not required to
24 assume the responsibilities of a social worker, and is not expected
25 to provide nonlegal services to the child.

26 (4) (A) At least once every year, if the list of educational
27 liaisons is available on the Internet Web site for the State
28 Department of Education, both of the following shall apply:

29 (i) Counsel shall provide his or her contact information to the
30 educational liaison, as described in subdivision (b) of Section
31 48853.5 of the Education Code, of each local educational agency
32 serving counsel's foster child clients in the county of jurisdiction.

33 (ii) If counsel is part of a firm or organization representing foster
34 children, the firm or organization may provide its contact
35 information in lieu of contact information for the individual
36 counsel. The firm or organization may designate a person or
37 persons within the firm or organization to receive communications
38 from educational liaisons.

39 (B) The child's caregiver or other person holding the right to
40 make educational decisions for the child may provide the contact

1 information of the child's attorney to the child's local educational
2 agency.

3 ~~(C) Counsel for the child and counsel's agent may, but are not~~
4 ~~required to, disclose to an individual who is being assessed for the~~
5 ~~possibility of placement pursuant to Section 361.3 the fact that the~~
6 ~~child is in custody, the alleged reasons that the child is in custody,~~
7 ~~and the projected likely date for the child's return home, placement~~
8 ~~for adoption, or legal guardianship. Nothing in this paragraph shall~~
9 ~~be construed to prohibit counsel from making other disclosures~~
10 ~~pursuant to this subdivision, as appropriate.~~

11 ~~(5) Nothing in this subdivision shall be construed to permit~~
12 ~~counsel to violate a child's attorney-client privilege.~~

13 ~~(6) The changes made to this subdivision during the 2011-12~~
14 ~~Regular Session of the Legislature by the act adding subparagraph~~
15 ~~(C) of paragraph (4) and paragraph (5) are declaratory of existing~~
16 ~~law.~~

17 ~~(7) The court shall take whatever appropriate action is necessary~~
18 ~~to fully protect the interests of the child.~~

19 ~~(f) Either the child or counsel for the child, with the informed~~
20 ~~consent of the child if the child is found by the court to be of~~
21 ~~sufficient age and maturity to consent, which shall be presumed,~~
22 ~~subject to rebuttal by clear and convincing evidence, if the child~~
23 ~~is over 12 years of age, may invoke the psychotherapist-client~~
24 ~~privilege, physician-patient privilege, and clergyman-penitent~~
25 ~~privilege. If the child invokes the privilege, counsel may not waive~~
26 ~~it, but if counsel invokes the privilege, the child may waive it.~~
27 ~~Counsel shall be the holder of these privileges if the child is found~~
28 ~~by the court not to be of sufficient age and maturity to consent.~~
29 ~~For the sole purpose of fulfilling his or her obligation to provide~~
30 ~~legal representation of the child, counsel shall have access to all~~
31 ~~records with regard to the child maintained by a health care facility,~~
32 ~~as defined in Section 1545 of the Penal Code, health care providers,~~
33 ~~as defined in Section 6146 of the Business and Professions Code,~~
34 ~~a physician and surgeon or other health practitioner, as defined in~~
35 ~~former Section 11165.8 of the Penal Code, as that section read on~~
36 ~~January 1, 2000, or a child care custodian, as defined in former~~
37 ~~Section 11165.7 of the Penal Code, as that section read on January~~
38 ~~1, 2000. Notwithstanding any other law, counsel shall be given~~
39 ~~access to all records relevant to the case that are maintained by~~
40 ~~state or local public agencies. All information requested from a~~

1 ~~child protective agency regarding a child who is in protective~~
2 ~~custody, or from a child's guardian ad litem, shall be provided to~~
3 ~~the child's counsel within 30 days of the request.~~

4 ~~(g) In a county of the third class, if counsel is to be provided to~~
5 ~~a child at the county's expense other than by counsel for the~~
6 ~~agency, the court shall first use the services of the public defender~~
7 ~~before appointing private counsel. Nothing in this subdivision shall~~
8 ~~be construed to require the appointment of the public defender in~~
9 ~~any case in which the public defender has a conflict of interest. In~~
10 ~~the interest of justice, a court may depart from that portion of the~~
11 ~~procedure requiring appointment of the public defender after~~
12 ~~making a finding of good cause and stating the reasons therefor~~
13 ~~on the record.~~

14 ~~(h) In a county of the third class, if counsel is to be appointed~~
15 ~~to provide legal counsel for a parent or guardian at the county's~~
16 ~~expense, the court shall first use the services of the alternate public~~
17 ~~defender before appointing private counsel. Nothing in this~~
18 ~~subdivision shall be construed to require the appointment of the~~
19 ~~alternate public defender in any case in which the public defender~~
20 ~~has a conflict of interest. In the interest of justice, a court may~~
21 ~~depart from that portion of the procedure requiring appointment~~
22 ~~of the alternate public defender after making a finding of good~~
23 ~~cause and stating the reasons therefor on the record.~~