

AMENDED IN ASSEMBLY JUNE 22, 2016

AMENDED IN ASSEMBLY JUNE 14, 2016

SENATE BILL

No. 316

Introduced by Senator Mitchell
(Principal coauthor: Assembly Member Cooley)
(Coauthor: Senator Huff)

February 23, 2015

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. 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.

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

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

1 SECTION 1. Section 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. A federal-level criminal
13 offender record request to the Department of Justice shall be
14 submitted with fingerprint images and related information required
15 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
21 appeal. The Department of Justice shall forward to the Federal
22 Bureau of Investigation any requests for federal summary criminal
23 history information received pursuant to this section. The
24 Department of Justice shall review the information returned from
25 the Federal Bureau of Investigation and shall compile and
26 disseminate a response to the department, county adoption agency,
27 or licensed adoption agency.

28 (b) Notwithstanding subdivision (c), the criminal record, if any,
29 shall be taken into consideration when evaluating the prospective
30 adoptive parent, and an assessment of the effects of any criminal
31 history on the ability of the prospective adoptive parent to provide
32 adequate and proper care and guidance to the child shall be
33 included in the report to the court.

34 (c) The department, county adoption agency, or licensed
35 adoption agency shall not give final approval for an adoptive
36 placement in any home in which the prospective adoptive parent
37 or any adult living in the prospective adoptive home has been
38 convicted of an offense for which an exemption cannot be granted

1 pursuant to subparagraph—(C) (A) of paragraph—(1) (2) of
2 subdivision (g) of Section 1522 of the Health and Safety Code.

3 (d) Any fee charged by a law enforcement agency for
4 fingerprinting or for checking or obtaining the criminal record of
5 the applicant shall be paid by the applicant. The department, county
6 adoption agency, or licensed adoption agency may defer, waive,
7 or reduce the fee when its payment would cause economic hardship
8 to prospective adoptive parents detrimental to the welfare of the
9 adopted child, when the child has been in the foster care of the
10 prospective adoptive parents for at least one year, or if necessary
11 for the placement of a special-needs child.

12 SEC. 2. Section 1522 of the Health and Safety Code is amended
13 to read:

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

32 (a) (1) Before and, as applicable, subsequent to issuing a license
33 or special permit to any person or persons to operate or manage a
34 community care facility, the State Department of Social Services
35 shall secure from an appropriate law enforcement agency a criminal
36 record to determine whether the applicant or any other person
37 specified in subdivision (b) has ever been convicted of a crime
38 other than a minor traffic violation or arrested for any crime
39 specified in Section 290 of the Penal Code, or for violating Section
40 245, 273ab, or 273.5 of the Penal Code, subdivision (b) of Section

1 273a of the Penal Code, or, prior to January 1, 1994, paragraph
2 (2) of Section 273a of the Penal Code, or for any crime for which
3 the department is prohibited from granting a criminal record
4 exemption pursuant to subdivision (g).

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

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

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

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

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

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

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

35 (E) An applicant and any other person specified in subdivision
36 (b) shall submit fingerprint images and related information to the
37 Department of Justice for the purpose of searching the criminal
38 records of the Federal Bureau of Investigation, in addition to the
39 criminal records search required by this subdivision. If an applicant
40 and all other persons described in subdivision (b) meet all of the

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

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

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

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

4 (A) Adults responsible for administration or direct supervision
5 of staff.

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

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

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

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

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

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

38 (A) A medical professional as defined in department regulations
39 who holds a valid license or certification from the person's
40 governing California medical care regulatory entity and who is

- 1 not employed, retained, or contracted by the licensee if all of the
2 following apply:
- 3 (i) The criminal record of the person has been cleared as a
4 condition of licensure or certification by the person's governing
5 California medical care regulatory entity.
- 6 (ii) The person is providing time-limited specialized clinical
7 care or services.
- 8 (iii) The person is providing care or services within the person's
9 scope of practice.
- 10 (iv) The person is not a community care facility licensee or an
11 employee of the facility.
- 12 (B) A third-party repair person or similar retained contractor if
13 all of the following apply:
- 14 (i) The person is hired for a defined, time-limited job.
- 15 (ii) The person is not left alone with clients.
- 16 (iii) When clients are present in the room in which the repair
17 person or contractor is working, a staff person who has a criminal
18 record clearance or exemption is also present.
- 19 (C) Employees of a licensed home health agency and other
20 members of licensed hospice interdisciplinary teams who have a
21 contract with a client or resident of the facility and are in the
22 facility at the request of that client or resident's legal
23 decisionmaker. The exemption does not apply to a person who is
24 a community care facility licensee or an employee of the facility.
- 25 (D) Clergy and other spiritual caregivers who are performing
26 services in common areas of the community care facility or who
27 are advising an individual client at the request of, or with the
28 permission of, the client or legal decisionmaker, are exempt from
29 fingerprint and criminal background check requirements imposed
30 by community care licensing. This exemption does not apply to a
31 person who is a community care licensee or employee of the
32 facility.
- 33 (E) Members of fraternal, service, or similar organizations who
34 conduct group activities for clients if all of the following apply:
- 35 (i) Members are not left alone with clients.
- 36 (ii) Members do not transport clients off the facility premises.
- 37 (iii) The same organization does not conduct group activities
38 for clients more often than defined by the department's regulations.
- 39 (3) In addition to the exemptions in paragraph (2), the following
40 persons in foster family homes, certified family homes, and small

1 family homes are exempt from the requirements applicable under
2 paragraph (1):

3 (A) Adult friends and family of the licensed or certified foster
4 parent, who come into the home to visit for a length of time no
5 longer than defined by the department in regulations, provided
6 that the adult friends and family of the licensee or certified parent
7 are not left alone with the foster children. However, the licensee
8 or certified parent, acting as a reasonable and prudent parent, as
9 defined in paragraph (2) of subdivision (a) of Section 362.04 of
10 the Welfare and Institutions Code, may allow his or her adult
11 friends and family to provide short-term care to the foster child
12 and act as an appropriate occasional short-term babysitter for the
13 child.

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

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

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

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

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

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

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

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

4 (5) (A) In addition to the exemptions specified in paragraph
5 (2), the following persons in adult residential and social
6 rehabilitation facilities, unless contraindicated by the client's
7 individualized program plan (IPP) or needs and services plan, are
8 exempt from the requirements applicable under paragraph (1): a
9 spouse, significant other, relative, or close friend of a client, or an
10 attendant or a facilitator for a client with a developmental disability
11 if the attendant or facilitator is not employed, retained, or
12 contracted by the licensee. This exemption applies only if the
13 person is visiting the client or providing direct care and supervision
14 to that client.

15 (B) Nothing in this subdivision shall prevent a licensee from
16 requiring a criminal record clearance of any individual exempt
17 from the requirements of this section, provided that the individual
18 has client contact.

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

21 (c) (1) Subsequent to initial licensure, a person specified in
22 subdivision (b) who is not exempted from fingerprinting shall
23 obtain either a criminal record clearance or an exemption from
24 disqualification pursuant to subdivision (g) from the State
25 Department of Social Services prior to employment, residence, or
26 initial presence in the facility. A person specified in subdivision
27 (b) who is not exempt from fingerprinting shall be fingerprinted
28 and shall sign a declaration under penalty of perjury regarding any
29 prior criminal convictions. The licensee shall submit fingerprint
30 images and related information to the Department of Justice and
31 the Federal Bureau of Investigation, through the Department of
32 Justice, for a state and federal level criminal offender record
33 information search, or comply with paragraph (1) of subdivision
34 (h). These fingerprint images and related information shall be sent
35 by electronic transmission in a manner approved by the State
36 Department of Social Services and the Department of Justice for
37 the purpose of obtaining a permanent set of fingerprints, and shall
38 be submitted to the Department of Justice by the licensee. A
39 licensee's failure to prohibit the employment, residence, or initial
40 presence of a person specified in subdivision (b) who is not exempt

1 from fingerprinting and who has not received either a criminal
2 record clearance or an exemption from disqualification pursuant
3 to subdivision (g) or to comply with paragraph (1) of subdivision
4 (h), as required in this section, shall result in the citation of a
5 deficiency and the immediate assessment of civil penalties in the
6 amount of one hundred dollars (\$100) per violation per day for a
7 maximum of five days, unless the violation is a second or
8 subsequent violation within a 12-month period in which case the
9 civil penalties shall be in the amount of one hundred dollars (\$100)
10 per violation for a maximum of 30 days, and shall be grounds for
11 disciplining the licensee pursuant to Section 1550. The department
12 may assess civil penalties for continued violations as permitted by
13 Section 1548. The fingerprint images and related information shall
14 then be submitted to the Department of Justice for processing.
15 Upon request of the licensee, who shall enclose a self-addressed
16 stamped postcard for this purpose, the Department of Justice shall
17 verify receipt of the fingerprints.

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

1 one hundred dollars (\$100) per violation for a maximum of 30
2 days, and shall be grounds for disciplining the licensee pursuant
3 to Section 1550. The department may assess civil penalties for
4 continued violations as permitted by Section 1548.

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

37 (4) The department may issue an exemption from
38 disqualification on its own motion pursuant to subdivision (g) if
39 the person's criminal history indicates that the person is of good
40 character based on the age, seriousness, and frequency of the

1 conviction or convictions. The department, in consultation with
2 interested parties, shall develop regulations to establish the criteria
3 to grant an exemption from disqualification pursuant to this
4 paragraph.

5 (5) Concurrently with notifying the licensee pursuant to
6 paragraph (3), the department shall notify the affected individual
7 of his or her right to seek an exemption from disqualification
8 pursuant to subdivision (g). The individual may seek an exemption
9 from disqualification only if the licensee terminates the person's
10 employment or removes the person from the facility after receiving
11 notice from the department pursuant to paragraph (3).

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

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

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

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

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

6 (B) If the State Department of Social Services finds that the
7 applicant, or any person specified in subdivision (b) who is not
8 exempt from fingerprinting is awaiting trial for a crime other than
9 a minor traffic violation, the State Department of Social Services
10 or other approving authority may cease processing the criminal
11 record information until the conclusion of the trial.

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

15 (D) To the same extent required for federal funding, an applicant
16 for a foster family home license or for certification as a family
17 home, and any other person specified in subdivision (b) who is
18 not exempt from fingerprinting, shall submit a set of fingerprint
19 images and related information to the Department of Justice and
20 the Federal Bureau of Investigation, through the Department of
21 Justice, for a state and federal level criminal offender record
22 information search, in addition to the criminal records search
23 required by subdivision (a).

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

31 (6) (A) Subsequent to initial licensure or certification, a person
32 specified in subdivision (b) who is not exempt from fingerprinting
33 shall obtain both a California and Federal Bureau of Investigation
34 criminal record clearance, or an exemption from disqualification
35 pursuant to subdivision (g), prior to employment, residence, or
36 initial presence in the foster family or certified family home. A
37 foster family home licensee or foster family agency shall submit
38 fingerprint images and related information of persons specified in
39 subdivision (b) who are not exempt from fingerprinting to the
40 Department of Justice and the Federal Bureau of Investigation,

1 through the Department of Justice, for a state and federal level
2 criminal offender record information search, or to comply with
3 paragraph (1) of subdivision (h). A foster family home licensee's
4 or a foster family agency's failure to either prohibit the
5 employment, residence, or initial presence of a person specified
6 in subdivision (b) who is not exempt from fingerprinting and who
7 has not received either a criminal record clearance or an exemption
8 from disqualification pursuant to subdivision (g), or comply with
9 paragraph (1) of subdivision (h), as required in this section, shall
10 result in a citation of a deficiency, and the immediate civil penalties
11 of one hundred dollars (\$100) per violation per day for a maximum
12 of five days, unless the violation is a second or subsequent violation
13 within a 12-month period in which case the civil penalties shall
14 be in the amount of one hundred dollars (\$100) per violation for
15 a maximum of 30 days, and shall be grounds for disciplining the
16 licensee pursuant to Section 1550. A violation of the regulation
17 adopted pursuant to Section 1522.04 shall result in the citation of
18 a deficiency and an immediate assessment of civil penalties in the
19 amount of one hundred dollars (\$100) per violation per day for a
20 maximum of five days, unless the violation is a second or
21 subsequent violation within a 12-month period in which case the
22 civil penalties shall be in the amount of one hundred dollars (\$100)
23 per violation for a maximum of 30 days, and shall be grounds for
24 disciplining the foster family home licensee or the foster family
25 agency pursuant to Section 1550. The State Department of Social
26 Services may assess penalties for continued violations, as permitted
27 by Section 1548. The fingerprint images shall then be submitted
28 to the Department of Justice for processing.

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

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

7 (8) If the State Department of Social Services or other approving
8 authority finds after licensure or the granting of the certificate of
9 approval that the licensee, certified foster parent, or any other
10 person specified in subdivision (b) who is not exempt from
11 fingerprinting, has been convicted of a crime other than a minor
12 traffic violation, the license or certificate of approval may be
13 revoked by the department or the foster family agency, whichever
14 is applicable, unless the director grants an exemption from
15 disqualification pursuant to subdivision (g). A licensee's failure
16 to comply with the department's prohibition of employment,
17 contact with clients, or presence in the facility as required by
18 paragraph (3) of subdivision (c) shall be grounds for disciplining
19 the licensee pursuant to Section 1550.

20 (e) (1) The State Department of Social Services shall not use
21 a record of arrest to deny, revoke, or terminate any application,
22 license, employment, or residence unless the department
23 investigates the incident and secures evidence, whether or not
24 related to the incident of arrest, that is admissible in an
25 administrative hearing to establish conduct by the person that may
26 pose a risk to the health and safety of any person who is or may
27 become a client.

28 (2) The department shall not issue a criminal record clearance
29 to a person who has been arrested for any crime specified in Section
30 290 of the Penal Code, or for violating Section 245, 273ab, or
31 273.5, or subdivision (b) of Section 273a, of the Penal Code, or,
32 prior to January 1, 1994, paragraph (2) of Section 273a of the Penal
33 Code, or for any crime for which the department is prohibited from
34 granting a criminal record exemption pursuant to subdivision (g),
35 prior to the department's completion of an investigation pursuant
36 to paragraph (1).

37 (3) The State Department of Social Services is authorized to
38 obtain any arrest or conviction records or reports from any law
39 enforcement agency as necessary to the performance of its duties

1 to inspect, license, and investigate community care facilities and
2 individuals associated with a community care facility.

3 (f) (1) For purposes of this section or any other provision of
4 this chapter, a conviction means a plea or verdict of guilty or a
5 conviction following a plea of nolo contendere. Any action that
6 the State Department of Social Services is permitted to take
7 following the establishment of a conviction may be taken when
8 the time for appeal has elapsed, when the judgment of conviction
9 has been affirmed on appeal, or when an order granting probation
10 is made suspending the imposition of sentence, notwithstanding
11 a subsequent order pursuant to Sections 1203.4 and 1203.4a of the
12 Penal Code permitting the person to withdraw his or her plea of
13 guilty and to enter a plea of not guilty, or setting aside the verdict
14 of guilty, or dismissing the accusation, information, or indictment.
15 For purposes of this section or any other provision of this chapter,
16 the record of a conviction, or a copy thereof certified by the clerk
17 of the court or by a judge of the court in which the conviction
18 occurred, shall be conclusive evidence of the conviction. For
19 purposes of this section or any other provision of this chapter, the
20 arrest disposition report certified by the Department of Justice, or
21 documents admissible in a criminal action pursuant to Section
22 969b of the Penal Code, shall be prima facie evidence of the
23 conviction, notwithstanding any other law prohibiting the
24 admission of these documents in a civil or administrative action.

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

29 (g) (1) Except as otherwise provided in this subdivision with
30 respect to a foster care provider applicant or resource family
31 applicant, after review of the record, the director may grant an
32 exemption from disqualification for a license or special permit as
33 specified in paragraph (4) of subdivision (a), or for a license,
34 special permit, or certificate of approval as specified in paragraphs
35 (4), (7), and (8) of subdivision (d), or for employment, residence,
36 or presence in a community care facility as specified in paragraphs
37 (3), (4), and (5) of subdivision (c), if the director has substantial
38 and convincing evidence to support a reasonable belief that the
39 applicant and the person convicted of the crime, if other than the
40 applicant, are of good character as to justify issuance of the license

1 or special permit or granting an exemption for purposes of
2 subdivision (c). Except as otherwise provided in this subdivision,
3 an exemption shall not be granted pursuant to this subdivision if
4 the conviction was for either of the following offenses:

5 (A) (i) An offense specified in Section 220, 243.4, or 264.1,
6 subdivision (a) of Section 273a, or, prior to January 1, 1994,
7 paragraph (1) of Section 273a, Section 273ab, 273d, 288, or 289,
8 subdivision (c) of Section 290, or Section 368, of the Penal Code,
9 or was a conviction of another crime against an individual specified
10 in subdivision (c) of Section 667.5 of the Penal Code.

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

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

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

35 (i) A felony conviction for child abuse or neglect, spousal abuse,
36 crimes against a child, including child pornography, or for a crime
37 involving violence, including rape, sexual assault, or homicide, or
38 any offense described in subdivision (c) of Section 667.5 of the
39 Penal Code, but not including other physical assault and battery.

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

3 (iii) This subparagraph shall not apply to licenses or approvals
4 wherein a caregiver was granted an exemption to a criminal
5 conviction described in clause (i) or (ii) prior to the enactment of
6 this subparagraph.

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

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

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

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

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

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

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

37 (3) In determining whether to grant an exemption, the
38 department shall consider all reasonably available information,
39 including, but not limited to, the following:

40 (i) The nature of the crime or crimes.

- 1 (ii) The period of time since the crime was committed.
- 2 (iii) The number of offenses.
- 3 (iv) Circumstances surrounding the commission of the crime
- 4 indicating the likelihood of future criminal activity.
- 5 (v) Activities since conviction, including employment,
- 6 participation in therapy, education, or treatment.
- 7 (vi) Whether the person convicted has successfully completed
- 8 probation or parole, obtained a certificate of rehabilitation, or been
- 9 granted a pardon by the Governor.
- 10 (vii) Any character references or other evidence submitted by
- 11 the applicant.
- 12 (viii) Whether the person convicted demonstrated honesty and
- 13 truthfulness concerning the crime or crimes during the application
- 14 and approval process and made reasonable efforts to assist the
- 15 department in obtaining records and documents concerning the
- 16 crime or crimes.
- 17 (4) The department shall not prohibit a person from being
- 18 employed or having contact with clients in a facility on the basis
- 19 of a denied criminal record exemption request or arrest information
- 20 unless the department complies with the requirements of Section
- 21 1558.
- 22 (h) (1) For purposes of compliance with this section, the
- 23 department may permit an individual to transfer a current criminal
- 24 record clearance, as defined in subdivision (a), from one facility
- 25 to another, as long as the criminal record clearance has been
- 26 processed through a state licensing district office, and is being
- 27 transferred to another facility licensed by a state licensing district
- 28 office. The request shall be in writing to the State Department of
- 29 Social Services, and shall include a copy of the person's driver's
- 30 license or valid identification card issued by the Department of
- 31 Motor Vehicles, or a valid photo identification issued by another
- 32 state or the United States government if the person is not a
- 33 California resident. Upon request of the licensee, who shall enclose
- 34 a self-addressed envelope for this purpose, the State Department
- 35 of Social Services shall verify whether the individual has a
- 36 clearance that can be transferred.
- 37 (2) The State Department of Social Services shall hold criminal
- 38 record clearances in its active files for a minimum of three years
- 39 after an employee is no longer employed at a licensed facility in
- 40 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 an offense described in subparagraph (A)
15 of paragraph (2) of subdivision (g) of Section 1522 of the Health
16 and Safety Code, the child shall not be placed in the home.

17 (B) (i) If the criminal records check indicates that the person
18 has been convicted of an offense described in subparagraph (B)
19 of paragraph (2) of subdivision (g) of Section 1522 of the Health
20 and Safety Code, the child shall not be placed in the home unless
21 a criminal records exemption has been granted under Section 1522
22 of the Health and Safety Code.

23 (ii) Notwithstanding clause (i), a child may be placed with a
24 relative or nonrelative extended family member pending a criminal
25 records exemption if all parties agree that the placement is in the
26 best interests of the child. If a child has been residing in the home
27 of a relative or nonrelative extended family member pursuant to
28 this clause, that fact shall be taken into account when determining
29 whether ~~the~~ to grant a criminal records exemption under Section
30 1522 of the Health and Safety Code.

31 (C) If the criminal records check indicates that the person has
32 been convicted of any offense other than an offense described in
33 subparagraph (A) or (B) of paragraph (2) of subdivision (g) of
34 Section 1522 of the Health and Safety Code, the county social
35 worker and the court shall consider the criminal history in
36 determining whether the placement is in the best interests of the
37 child.

38 (D) If the criminal records check indicates that the person has
39 been arrested for any offense described in paragraph (2) of
40 subdivision (e) of Section 1522 of the Health and Safety Code, the

1 child shall not be placed in the home until the investigation required
2 by paragraph (1) of subdivision (e) of Section 1522 of the Health
3 and Safety Code has been completed and the county social worker
4 and the court have considered the investigation results when
5 determining whether the placement is in the best interests of the
6 child.

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

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

24 (B) An explanation of the various options to participate in the
25 care and placement of the child and support for the child’s family,
26 including any options that may be lost by failing to respond. The
27 notice shall provide information about providing care for the child
28 while the family receives reunification services with the goal of
29 returning the child to the parent or guardian, how to become a
30 foster family home or approved relative or nonrelative extended
31 family member as defined in Section 362.7, and additional services
32 and support that are available in out-of-home placements. The
33 notice shall also include information regarding the Kin-GAP
34 Program (Article 4.5 (commencing with Section 11360) of Chapter
35 2 of Part 3 of Division 9), the CalWORKs program for approved
36 relative caregivers (Chapter 2 (commencing with Section 11200)
37 of Part 3 of Division 9), adoption, and adoption assistance (Chapter
38 2.1 (commencing with Section 16115) of Part 4 of Division 9), as
39 well as other options for contact with the child, including, but not
40 limited to, visitation. The State Department of Social Services, in

1 consultation with the County Welfare Directors Association of
2 California and other interested stakeholders, shall develop the
3 written notice.

4 (2) The social worker shall also provide the adult relatives
5 notified pursuant to paragraph (1) with a relative information form
6 to provide information to the social worker and the court regarding
7 the needs of the child. The form shall include a provision whereby
8 the relative may request the permission of the court to address the
9 court, if the relative so chooses. The Judicial Council, in
10 consultation with the State Department of Social Services and the
11 County Welfare Directors Association of California, shall develop
12 the form.

13 (3) The social worker shall use due diligence in investigating
14 the names and locations of the relatives pursuant to paragraph (1),
15 including, but not limited to, asking the child in an age-appropriate
16 manner about relatives important to the child, consistent with the
17 child's best interest, and obtaining information regarding the
18 location of the child's adult relatives. Each county welfare
19 department shall create and make public a procedure by which
20 relatives of a child who has been removed from his or her parents
21 or guardians may identify themselves to the county welfare
22 department and be provided with the notices required by paragraphs
23 (1) and (2).

24 SEC. 4. Section 361.4 of the Welfare and Institutions Code is
25 amended to read:

26 361.4. (a) Prior to placing a child in the home of a relative, or
27 the home of any prospective guardian or other person who is not
28 a licensed or certified foster parent, the county social worker shall
29 visit the home to ascertain the appropriateness of the placement.

30 (b) (1) Whenever a child may be placed in the home of a
31 relative, or the home of any prospective guardian or other person
32 who is not a licensed or certified foster parent, the court or county
33 social worker placing the child shall cause a state-level criminal
34 records check to be conducted by an appropriate government
35 agency through the California Law Enforcement
36 Telecommunications System (CLETS) pursuant to Section 16504.5.
37 The criminal records check shall be conducted with regard to all
38 persons over 18 years of age living in the home, and on any other
39 person over 18 years of age, other than professionals providing
40 professional services to the child, known to the placing entity who

1 may have significant contact with the child, including any person
2 who has a familial or intimate relationship with any person living
3 in the home. A criminal records check may be conducted pursuant
4 to this section on any person over 14 years of age living in the
5 home who the county social worker believes may have a criminal
6 record. Within 10 calendar days following the criminal records
7 check conducted through the California Law Enforcement
8 Telecommunications System, the social worker shall ensure that
9 a fingerprint clearance check of the relative and any other person
10 whose criminal record was obtained pursuant to this subdivision
11 is initiated through the Department of Justice to ensure the accuracy
12 of the criminal records check conducted through the California
13 Law Enforcement Telecommunications System and shall review
14 the results of any criminal records check to assess the safety of the
15 home. The Department of Justice shall forward fingerprint requests
16 for federal-level criminal history information to the Federal Bureau
17 of Investigation pursuant to this section.

18 (2) An identification card from a foreign consulate or foreign
19 passport shall be considered a valid form of identification for
20 conducting a criminal records check and fingerprint clearance
21 check under this subdivision and under subdivision (c).

22 (c) Whenever a child may be placed in the home of a relative,
23 or a prospective guardian or other person who is not a licensed or
24 certified foster parent, the county social worker shall cause a check
25 of the Child Abuse Central Index pursuant to subdivision (a) of
26 Section 11170 of the Penal Code to be requested from the
27 Department of Justice. The Child Abuse Central Index check shall
28 be conducted on all persons over 18 years of age living in the
29 home. For any application received on or after January 1, 2008, if
30 any person in the household is 18 years of age or older and has
31 lived in another state in the preceding five years, the county social
32 worker shall check the other state's child abuse and neglect registry
33 to the extent required by federal law.

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

39 (2) (A) If the criminal records check indicates that the person
40 has been convicted of an offense described in subparagraph (A)

1 of paragraph (2) of subdivision (g) of Section 1522 of the Health
2 and Safety Code, the child shall not be placed in the home.

3 (B) (i) If the criminal records check indicates that the person
4 has been convicted of an offense described in subparagraph (B)
5 of paragraph (2) of subdivision (g) of Section 1522 of the Health
6 and Safety Code, the child shall not be placed in the home unless
7 a criminal records exemption has been granted under Section 1522
8 of the Health and Safety Code.

9 (ii) Notwithstanding clause (i), a child may be placed with a
10 relative or nonrelative extended family member pending a criminal
11 records exemption if all parties agree that the placement is in the
12 best interests of the child. If a child has been residing in the home
13 of a relative or nonrelative extended family member pursuant to
14 this clause, that fact shall be taken into account when determining
15 whether ~~the~~ to grant a criminal records exemption under Section
16 1522 of the Health and Safety Code.

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

23 (D) If the criminal records check indicates that the person has
24 been arrested for any offense described in paragraph (2) of
25 subdivision (e) of Section 1522 of the Health and Safety Code, the
26 child shall not be placed in the home until the investigation required
27 by paragraph (1) of subdivision (e) of Section 1522 of the Health
28 and Safety Code has been completed and the county social worker
29 and the court have considered the investigation results when
30 determining whether the placement is in the best interests of the
31 child.

32 (3) (A) A county may issue a criminal records exemption only
33 if that county has been granted permission by the Director of Social
34 Services to issue criminal records exemptions. The county may
35 file a request with the Director of Social Services seeking
36 permission for the county to establish a procedure to evaluate and
37 grant appropriate individual criminal records exemptions for
38 persons described in subdivision (b). The director shall grant or
39 deny the county's request within 14 days of receipt. The county
40 shall evaluate individual criminal records in accordance with the

1 standards and limitations set forth in subdivision (g) of Section
2 1522 of the Health and Safety Code, and in no event shall the
3 county place a child in the home of a person who is ineligible for
4 an exemption under that provision.

5 (B) The department shall monitor county implementation of the
6 authority to grant an exemption under this paragraph to ensure that
7 the county evaluates individual criminal records and allows or
8 disallows placements according to the standards set forth in
9 subdivision (g) of Section 1522 of the Health and Safety Code.

10 (4) The department shall conduct an evaluation of the
11 implementation of paragraph (3) through random sampling of
12 county exemption decisions.

13 (5) The State Department of Social Services shall not evaluate
14 or grant criminal records exemption requests for persons described
15 in subdivision (b), unless the exemption request is made by an
16 Indian tribe pursuant to subdivision (f).

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

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

27 (f) The State Department of Social Services shall evaluate a
28 request from an Indian tribe to exempt a crime that is eligible for
29 exemption under Section 1522 of the Health and Safety Code, if
30 needed, to allow placement into an Indian home that the tribe has
31 designated for placement under the federal Indian Child Welfare
32 Act (25 U.S.C. Sec. 1901 et seq.). However, if the county with
33 jurisdiction over the child that is the subject of the tribe's request
34 has established an approved procedure pursuant to paragraph (3)
35 of subdivision (d), the tribe may request that the county evaluate
36 the exemption request. Once a tribe has elected to have the
37 exemption request reviewed by either the State Department of
38 Social Services or the county, the exemption decision may only
39 be made by that entity. Nothing in this subdivision limits the duty

1 of a county social worker to evaluate the home for placement or
2 to gather information needed to evaluate an exemption request.

3 SEC. 5. Section 16519.5 of the Welfare and Institutions Code
4 is amended to read:

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

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

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

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

36 (A) An understanding of the safety, permanence, and well-being
37 needs of children who have been victims of child abuse and neglect,
38 and the capacity and willingness to meet those needs, including
39 the need for protection, and the willingness to make use of support

1 resources offered by the agency, or a support structure in place,
2 or both.

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

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

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

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

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

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

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

29 (5) Notwithstanding paragraphs (1) to (4), inclusive, the
30 department or county may cease any further review of an
31 application if the applicant has had a previous application denial
32 within the preceding year, or if the applicant has had a previous
33 rescission, revocation, or exemption denial or rescission by the
34 department or county within the preceding two years. However,
35 the department or county may continue to review an application
36 if it has determined that the reasons for the previous denial,
37 rescission, or revocation were due to circumstances and conditions
38 that either have been corrected or are no longer in existence. If an
39 individual was excluded from a resource family home or facility
40 licensed by the department, the department or county shall cease

1 review of the individual's application unless the excluded
2 individual has been reinstated pursuant to Section 11522 of the
3 Government Code. The cessation of review shall not constitute a
4 denial of the application for purposes of this section or any other
5 law.

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

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

11 (A) (i) (I) Criminal records clearance of all adults residing in,
12 or regularly present in, the home, and not exempted from
13 fingerprinting, as set forth in subdivision (b) of Section 1522 of
14 the Health and Safety Code, pursuant to Section 8712 of the Family
15 Code, utilizing a check of the Child Abuse Central Index (CACI),
16 and receipt of a fingerprint-based state and federal criminal
17 offender record information search response. The criminal history
18 information shall include subsequent notifications pursuant to
19 Section 11105.2 of the Penal Code.

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

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

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

34 (V) Exemptions from the criminal records clearance
35 requirements set forth in this section may be granted by the director
36 or the early implementation county, if that county has been granted
37 permission by the director to issue criminal records exemptions
38 pursuant to Section 361.4, using the exemption criteria currently
39 used for foster care licensing as specified in *paragraph (3) of*
40 *subdivision (g) of Section 1522 of the Health and Safety Code.*

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

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

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

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

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

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

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

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

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

(A) The applicant shall complete caregiver training.

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

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

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

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

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

10 (3) If additional time is needed to complete the permanency
11 assessment, the county shall document the extenuating
12 circumstances for the delay and generate a timeframe for the
13 completion of the permanency assessment.

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

18 (5) A child may be placed with a relative, as defined in Section
19 319, or nonrelative extended family member, as defined in Section
20 362.7, prior to applying as a resource family only on an emergency
21 basis if all of the following requirements are met:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(A) Investigating complaints of resource families.

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

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

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

(B) Reviewing an adequate number of approved resource families in each participating county to ensure that approval standards are being properly applied. The review shall include case file documentation, and may include onsite inspection of individual resource families. The review shall occur on an annual basis, and more frequently if the department becomes aware that

1 a participating county is experiencing a disproportionate number
2 of complaints against individual resource family homes.

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

8 (D) Investigating unresolved complaints against participating
9 counties.

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

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

16 (10) Implementing due process procedures, including all of the
17 following:

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

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

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

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

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

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

37 (4) Ensuring staff have the education and experience necessary
38 to complete the home environment and psychosocial assessments
39 competently.

40 (5) (A) Taking the following actions, as applicable:

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

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

7 (B) Upon conclusion of the complaint investigation, the final
8 disposition shall be reviewed and approved by a supervising staff
9 member.

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

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

16 (10) Assessing county performance in related areas of the
17 California Child and Family Services Review System, and
18 remedying problems identified.

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

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

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

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

34 (B) The effects of trauma, including grief and loss, and child
35 abuse and neglect, on child development and behavior, and
36 methods to behaviorally support children impacted by that trauma
37 or child abuse and neglect.

38 (C) Positive discipline and the importance of self-esteem.

39 (D) Health issues in foster care.

1 (E) Accessing services and supports to address education needs,
2 physical, mental, and behavioral health, and substance use
3 disorders, including culturally relevant services.

4 (F) The rights of a child in foster care, and the resource family's
5 responsibility to safeguard those rights, including the right to have
6 fair and equal access to all available services, placement, care,
7 treatment, and benefits, and to not be subjected to discrimination
8 or harassment on the basis of actual or perceived race, ethnic group
9 identification, ancestry, national origin, color, religion, sex, sexual
10 orientation, gender identity, mental or physical disability, or HIV
11 status.

12 (G) Cultural needs of children, including instruction on cultural
13 competency and sensitivity, and related best practices for providing
14 adequate care for children or youth across diverse ethnic and racial
15 backgrounds, as well as children or youth identifying as lesbian,
16 gay, bisexual, or transgender.

17 (H) Basic instruction on existing laws and procedures regarding
18 the safety of foster youth at school; and ensuring a harassment and
19 violence free school environment pursuant to Article 3.6
20 (commencing with Section 32228) of Chapter 2 of Part 19 of
21 Division 1 of Title 1 of the Education Code.

22 (I) Permanence, well-being, and education needs of children.

23 (J) Child and adolescent development, including sexual
24 orientation, gender identity, and expression.

25 (K) The role of resource families, including working
26 cooperatively with the child welfare or probation agency, the
27 child's family, and other service providers implementing the case
28 plan.

29 (L) The role of a resource family on the child and family team
30 as defined in paragraph (4) of subdivision (a) of Section 16501.

31 (M) A resource family's responsibility to act as a reasonable
32 and prudent parent, and to provide a family setting that promotes
33 normal childhood experiences and that serves the needs of the
34 child.

35 (N) An overview of the specialized training identified in
36 subdivision (h).

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

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

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

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

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

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

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

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

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

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

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

(2) Upon implementation of the program in a county, that county may not accept new applications for the licensure of foster family

1 homes, the approval of relative and nonrelative extended family
2 members, or the approval of prospective adoptive homes.

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

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

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

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

37 (3) A program-affiliated individual who moves to a
38 nonparticipating county may not transfer his or her subsequent
39 arrest notification from a participating county to the
40 nonparticipating county.

1 (n) Implementation of the program shall be contingent upon the
2 continued availability of federal Social Security Act Title IV-E
3 (42 U.S.C. Sec. 670) funds for costs associated with placement of
4 children with resource families assessed and approved under the
5 program.

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

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

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

19 (1) Licensure requirements set forth under the California
20 Community Care Facilities Act (Chapter 3 (commencing with
21 Section 1500) of Division 2 of the Health and Safety Code), and
22 all regulations promulgated thereto.

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

26 (3) Adoptions approval and reporting requirements set forth
27 under Section 8712 of the Family Code, and all regulations
28 promulgated thereto.

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

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

35 (A) A detailed description of the resource family approval
36 program.

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

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

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

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

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

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

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

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

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

37 (s) On and after January 1, 2017, all licensed foster family
38 agencies shall approve resource families in lieu of certifying foster
39 homes. A foster family agency or a short-term residential treatment
40 center pursuant to subdivision (b) of Section 11462 shall require

1 applicants and resource families to meet the resource family
2 approval standards and requirements set forth in this chapter and
3 in the written directives adopted pursuant to this chapter prior to
4 approval and in order to maintain approval.

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

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

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

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

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

28 SEC. 6. To the extent that this act has an overall effect of
29 increasing the costs already borne by a local agency for programs
30 or levels of service mandated by the 2011 Realignment Legislation
31 within the meaning of Section 36 of Article XIII of the California
32 Constitution, it shall apply to local agencies only to the extent that
33 the state provides annual funding for the cost increase. Any new
34 program or higher level of service provided by a local agency
35 pursuant to this act above the level for which funding has been
36 provided shall not require a subvention of funds by the state nor
37 otherwise be subject to Section 6 of Article XIII B of the California
38 Constitution.

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