

**Introduced by Senator Liu**February 16, 2016

---

---

An act to amend Sections 361.5, 366.1, 366.21, 366.215, 366.22, 366.25, 16500.1, 16500.5, and 16517 of the Welfare and Institutions Code, relating to juveniles.

## LEGISLATIVE COUNSEL'S DIGEST

SB 1056, as introduced, Liu. Juveniles: family reunification.

Existing law establishes the jurisdiction of the juvenile court, which is authorized to adjudge certain children to be dependents of the court under certain circumstances, and prescribes various hearings and other procedures for these purposes, including the periodic review of the status of every dependent child in foster care, as determined by the court. Existing law requires a supplemental report, with specified content, to be filed in connection with this review, as specified.

This bill would require the county, if the parent is in substantial compliance with the case plan and a lack of housing is the sole impediment to family reunification, to include information in the supplemental report about its consideration of the services offered by the county welfare department to assist the parent in securing appropriate housing. The bill would also require the court, at the periodic reviews, to consider whether the parent is in substantial compliance with the court-ordered case plan, whether lack of housing is the sole impediment to family reunification, and whether the child can be returned to the parent upon the parent securing appropriate housing. The bill would authorize the court, if the parent is in substantial compliance with the court-ordered case plan and lack of housing is the sole impediment to family reunification, to order that the child be returned to the parent's physical custody within 5 days after the parent has secured appropriate

housing. The bill would also require the court to consider a parent's homelessness when deciding whether to continue the case. By imposing additional duties on social workers, this bill would impose a state-mandated local program.

Existing law generally requires, whenever a child is removed from a parent's or guardian's custody, the juvenile court to order a social worker to provide child welfare services to a child, the child's mother and statutorily presumed father, or guardians. Existing law authorizes the court to extend the time that court-ordered services are provided, and requires the court, when determining whether to extend the time, to consider the special circumstances of certain types of parents, including, among others, parents who have been incarcerated or institutionalized.

This bill would also require the court to consider the special circumstances of homeless parents when determining whether to extend the time that court-ordered services are provided.

Existing law declares the intent of the Legislature to encourage the continuity of the family unit by providing family preservation services. Existing law specifies the types of services that may be provided under this program, including, transportation and family support services.

This bill would specify that the services provided may also include housing and supportive services for homeless parents, as specified.

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 361.5 of the Welfare and Institutions
- 2 Code is amended to read:
- 3 361.5. (a) Except as provided in subdivision (b), or when the
- 4 parent has voluntarily relinquished the child and the relinquishment
- 5 has been filed with the State Department of Social Services, or
- 6 upon the establishment of an order of guardianship pursuant to
- 7 Section 360, or when a court adjudicates a petition under Section
- 8 329 to modify the court's jurisdiction from delinquency jurisdiction
- 9 to dependency jurisdiction pursuant to subparagraph (A) of

1 paragraph (2) of subdivision (b) of Section 607.2 and the parents  
2 or guardian of the ward have had reunification services terminated  
3 under the delinquency jurisdiction, whenever a child is removed  
4 from a parent's or guardian's custody, the juvenile court shall order  
5 the social worker to provide child welfare services to the child and  
6 the child's mother and statutorily presumed father or guardians.  
7 Upon a finding and declaration of paternity by the juvenile court  
8 or proof of a prior declaration of paternity by any court of  
9 competent jurisdiction, the juvenile court may order services for  
10 the child and the biological father, if the court determines that the  
11 services will benefit the child.

12 (1) Family reunification services, when provided, shall be  
13 provided as follows:

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

21 (B) For a child who, on the date of initial removal from the  
22 physical custody of his or her parent or guardian, was under three  
23 years of age, court-ordered services shall be provided for a period  
24 of six months from the dispositional hearing as provided in  
25 subdivision (e) of Section 366.21, but no longer than 12 months  
26 from the date the child entered foster care as provided in Section  
27 361.49 unless the child is returned to the home of the parent or  
28 guardian.

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

39 (2) Any motion to terminate court-ordered reunification services  
40 prior to the hearing set pursuant to subdivision (f) of Section 366.21

1 for a child described by subparagraph (A) of paragraph (1), or  
2 prior to the hearing set pursuant to subdivision (e) of Section  
3 366.21 for a child described by subparagraph (B) or (C) of  
4 paragraph (1), shall be made pursuant to the requirements set forth  
5 in subdivision (c) of Section 388. A motion to terminate  
6 court-ordered reunification services shall not be required at the  
7 hearing set pursuant to subdivision (e) of Section 366.21 if the  
8 court finds by clear and convincing evidence one of the following:

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

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

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

14 (3) Notwithstanding subparagraphs (A), (B), and (C) of  
15 paragraph (1), court-ordered services may be extended up to a  
16 maximum time period not to exceed 18 months after the date the  
17 child was originally removed from physical custody of his or her  
18 parent or guardian if it can be shown, at the hearing held pursuant  
19 to subdivision (f) of Section 366.21, that the permanent plan for  
20 the child is that he or she will be returned and safely maintained  
21 in the home within the extended time period. The court shall extend  
22 the time period only if it finds that there is a substantial probability  
23 that the child will be returned to the physical custody of his or her  
24 parent or guardian within the extended time period or that  
25 reasonable services have not been provided to the parent or  
26 guardian. In determining whether court-ordered services may be  
27 extended, the court shall consider the special circumstances of an  
28 incarcerated or institutionalized parent or parents, parent or parents  
29 court-ordered to a residential substance abuse treatment program,  
30 *a homeless parent*, or a parent who has been arrested and issued  
31 an immigration hold, detained by the United States Department  
32 of Homeland Security, or deported to his or her country of origin,  
33 including, but not limited to, barriers to the parent's or guardian's  
34 access to services and ability to maintain contact with his or her  
35 child. The court shall also consider, among other factors, good  
36 faith efforts that the parent or guardian has made to maintain  
37 contact with the child. If the court extends the time period, the  
38 court shall specify the factual basis for its conclusion that there is  
39 a substantial probability that the child will be returned to the  
40 physical custody of his or her parent or guardian within the

1 extended time period. The court also shall make findings pursuant  
2 to subdivision (a) of Section 366 and subdivision (e) of Section  
3 358.1.

4 When counseling or other treatment services are ordered, the  
5 parent or guardian shall be ordered to participate in those services,  
6 unless the parent's or guardian's participation is deemed by the  
7 court to be inappropriate or potentially detrimental to the child, or  
8 unless a parent or guardian is incarcerated or detained by the United  
9 States Department of Homeland Security and the corrections  
10 facility in which he or she is incarcerated does not provide access  
11 to the treatment services ordered by the court, or has been deported  
12 to his or her country of origin and services ordered by the court  
13 are not accessible in that country. Physical custody of the child by  
14 the parents or guardians during the applicable time period under  
15 subparagraph (A), (B), or (C) of paragraph (1) shall not serve to  
16 interrupt the running of the time period. If at the end of the  
17 applicable time period, a child cannot be safely returned to the  
18 care and custody of a parent or guardian without court supervision,  
19 but the child clearly desires contact with the parent or guardian,  
20 the court shall take the child's desire into account in devising a  
21 permanency plan.

22 In cases where the child was under three years of age on the date  
23 of the initial removal from the physical custody of his or her parent  
24 or guardian or is a member of a sibling group as described in  
25 subparagraph (C) of paragraph (1), the court shall inform the parent  
26 or guardian that the failure of the parent or guardian to participate  
27 regularly in any court-ordered treatment programs or to cooperate  
28 or avail himself or herself of services provided as part of the child  
29 welfare services case plan may result in a termination of efforts  
30 to reunify the family after six months. The court shall inform the  
31 parent or guardian of the factors used in subdivision (e) of Section  
32 366.21 to determine whether to limit services to six months for  
33 some or all members of a sibling group as described in  
34 subparagraph (C) of paragraph (1).

35 (4) Notwithstanding paragraph (3), court-ordered services may  
36 be extended up to a maximum time period not to exceed 24 months  
37 after the date the child was originally removed from physical  
38 custody of his or her parent or guardian if it is shown, at the hearing  
39 held pursuant to subdivision (b) of Section 366.22, that the  
40 permanent plan for the child is that he or she will be returned and

1 safely maintained in the home within the extended time period.  
2 The court shall extend the time period only if it finds that it is in  
3 the child's best interest to have the time period extended and that  
4 there is a substantial probability that the child will be returned to  
5 the physical custody of his or her parent or guardian who is  
6 described in subdivision (b) of Section 366.22 within the extended  
7 time period, or that reasonable services have not been provided to  
8 the parent or guardian. If the court extends the time period, the  
9 court shall specify the factual basis for its conclusion that there is  
10 a substantial probability that the child will be returned to the  
11 physical custody of his or her parent or guardian within the  
12 extended time period. The court also shall make findings pursuant  
13 to subdivision (a) of Section 366 and subdivision (e) of Section  
14 358.1.

15 When counseling or other treatment services are ordered, the  
16 parent or guardian shall be ordered to participate in those services,  
17 in order for substantial probability to be found. Physical custody  
18 of the child by the parents or guardians during the applicable time  
19 period under subparagraph (A), (B), or (C) of paragraph (1) shall  
20 not serve to interrupt the running of the time period. If at the end  
21 of the applicable time period, the child cannot be safely returned  
22 to the care and custody of a parent or guardian without court  
23 supervision, but the child clearly desires contact with the parent  
24 or guardian, the court shall take the child's desire into account in  
25 devising a permanency plan.

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

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

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

38 (2) That the parent or guardian is suffering from a mental  
39 disability that is described in Chapter 2 (commencing with Section

1 7820) of Part 4 of Division 12 of the Family Code and that renders  
2 him or her incapable of utilizing those services.

3 (3) That the child or a sibling of the child has been previously  
4 adjudicated a dependent pursuant to any subdivision of Section  
5 300 as a result of physical or sexual abuse, that following that  
6 adjudication the child had been removed from the custody of his  
7 or her parent or guardian pursuant to Section 361, that the child  
8 has been returned to the custody of the parent or guardian from  
9 whom the child had been taken originally, and that the child is  
10 being removed pursuant to Section 361, due to additional physical  
11 or sexual abuse.

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

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

17 (6) That the child has been adjudicated a dependent pursuant  
18 to any subdivision of Section 300 as a result of severe sexual abuse  
19 or the infliction of severe physical harm to the child, a sibling, or  
20 a half sibling by a parent or guardian, as defined in this subdivision,  
21 and the court makes a factual finding that it would not benefit the  
22 child to pursue reunification services with the offending parent or  
23 guardian.

24 A finding of severe sexual abuse, for the purposes of this  
25 subdivision, may be based on, but is not limited to, sexual  
26 intercourse, or stimulation involving genital-genital, oral-genital,  
27 anal-genital, or oral-anal contact, whether between the parent or  
28 guardian and the child or a sibling or half sibling of the child, or  
29 between the child or a sibling or half sibling of the child and  
30 another person or animal with the actual or implied consent of the  
31 parent or guardian; or the penetration or manipulation of the  
32 child's, sibling's, or half sibling's genital organs or rectum by any  
33 animate or inanimate object for the sexual gratification of the  
34 parent or guardian, or for the sexual gratification of another person  
35 with the actual or implied consent of the parent or guardian.

36 A finding of the infliction of severe physical harm, for the  
37 purposes of this subdivision, may be based on, but is not limited  
38 to, deliberate and serious injury inflicted to or on a child's body  
39 or the body of a sibling or half sibling of the child by an act or  
40 omission of the parent or guardian, or of another individual or

1 animal with the consent of the parent or guardian; deliberate and  
2 torturous confinement of the child, sibling, or half sibling in a  
3 closed space; or any other torturous act or omission that would be  
4 reasonably understood to cause serious emotional damage.

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

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

13 (9) That the child has been found to be a child described in  
14 subdivision (g) of Section 300; that the parent or guardian of the  
15 child willfully abandoned the child, and the court finds that the  
16 abandonment itself constituted a serious danger to the child; or  
17 that the parent or other person having custody of the child  
18 voluntarily surrendered physical custody of the child pursuant to  
19 Section 1255.7 of the Health and Safety Code. For the purposes  
20 of this paragraph, “serious danger” means that without the  
21 intervention of another person or agency, the child would have  
22 sustained severe or permanent disability, injury, illness, or death.  
23 For purposes of this paragraph, “willful abandonment” shall not  
24 be construed as actions taken in good faith by the parent without  
25 the intent of placing the child in serious danger.

26 (10) That the court ordered termination of reunification services  
27 for any siblings or half siblings of the child because the parent or  
28 guardian failed to reunify with the sibling or half sibling after the  
29 sibling or half sibling had been removed from that parent or  
30 guardian pursuant to Section 361 and that parent or guardian is  
31 the same parent or guardian described in subdivision (a) and that,  
32 according to the findings of the court, this parent or guardian has  
33 not subsequently made a reasonable effort to treat the problems  
34 that led to removal of the sibling or half sibling of that child from  
35 that parent or guardian.

36 (11) That the parental rights of a parent over any sibling or half  
37 sibling of the child had been permanently severed, and this parent  
38 is the same parent described in subdivision (a), and that, according  
39 to the findings of the court, this parent has not subsequently made

1 a reasonable effort to treat the problems that led to removal of the  
2 sibling or half sibling of that child from the parent.

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

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

15 (14) That the parent or guardian of the child has advised the  
16 court that he or she is not interested in receiving family  
17 maintenance or family reunification services or having the child  
18 returned to or placed in his or her custody and does not wish to  
19 receive family maintenance or reunification services.

20 The parent or guardian shall be represented by counsel and shall  
21 execute a waiver of services form to be adopted by the Judicial  
22 Council. The court shall advise the parent or guardian of any right  
23 to services and of the possible consequences of a waiver of  
24 services, including the termination of parental rights and placement  
25 of the child for adoption. The court shall not accept the waiver of  
26 services unless it states on the record its finding that the parent or  
27 guardian has knowingly and intelligently waived the right to  
28 services.

29 (15) That the parent or guardian has on one or more occasions  
30 willfully abducted the child or child's sibling or half sibling from  
31 his or her placement and refused to disclose the child's or child's  
32 sibling's or half sibling's whereabouts, refused to return physical  
33 custody of the child or child's sibling or half sibling to his or her  
34 placement, or refused to return physical custody of the child or  
35 child's sibling or half sibling to the social worker.

36 (16) That the parent or guardian has been required by the court  
37 to be registered on a sex offender registry under the federal Adam  
38 Walsh Child Protection and Safety Act of 2006 (42 U.S.C. Sec.  
39 16913(a)), as required in Section 106(b)(2)(B)(xvi)(VI) of the

1 Child Abuse Prevention and Treatment Act of 2006 (42 U.S.C.  
2 Sec. 5106a(2)(B)(xvi)(VI)).

3 (c) In deciding whether to order reunification in any case in  
4 which this section applies, the court shall hold a dispositional  
5 hearing. The social worker shall prepare a report that discusses  
6 whether reunification services shall be provided. When it is alleged,  
7 pursuant to paragraph (2) of subdivision (b), that the parent is  
8 incapable of utilizing services due to mental disability, the court  
9 shall order reunification services unless competent evidence from  
10 mental health professionals establishes that, even with the provision  
11 of services, the parent is unlikely to be capable of adequately caring  
12 for the child within the time limits specified in subdivision (a).

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

18 In addition, the court shall not order reunification in any situation  
19 described in paragraph (5) of subdivision (b) unless it finds that,  
20 based on competent testimony, those services are likely to prevent  
21 reabuse or continued neglect of the child or that failure to try  
22 reunification will be detrimental to the child because the child is  
23 closely and positively attached to that parent. The social worker  
24 shall investigate the circumstances leading to the removal of the  
25 child and advise the court whether there are circumstances that  
26 indicate that reunification is likely to be successful or unsuccessful  
27 and whether failure to order reunification is likely to be detrimental  
28 to the child.

29 The failure of the parent to respond to previous services, the fact  
30 that the child was abused while the parent was under the influence  
31 of drugs or alcohol, a past history of violent behavior, or testimony  
32 by a competent professional that the parent's behavior is unlikely  
33 to be changed by services are among the factors indicating that  
34 reunification services are unlikely to be successful. The fact that  
35 a parent or guardian is no longer living with an individual who  
36 severely abused the child may be considered in deciding that  
37 reunification services are likely to be successful, provided that the  
38 court shall consider any pattern of behavior on the part of the parent  
39 that has exposed the child to repeated abuse.

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

6 (e) (1) If the parent or guardian is incarcerated, institutionalized,  
7 or detained by the United States Department of Homeland Security,  
8 or has been deported to his or her country of origin, the court shall  
9 order reasonable services unless the court determines, by clear and  
10 convincing evidence, those services would be detrimental to the  
11 child. In determining detriment, the court shall consider the age  
12 of the child, the degree of parent-child bonding, the length of the  
13 sentence, the length and nature of the treatment, the nature of the  
14 crime or illness, the degree of detriment to the child if services are  
15 not offered and, for children 10 years of age or older, the child's  
16 attitude toward the implementation of family reunification services,  
17 the likelihood of the parent's discharge from incarceration,  
18 institutionalization, or detention within the reunification time  
19 limitations described in subdivision (a), and any other appropriate  
20 factors. In determining the content of reasonable services, the court  
21 shall consider the particular barriers to an incarcerated,  
22 institutionalized, detained, or deported parent's access to those  
23 court-mandated services and ability to maintain contact with his  
24 or her child, and shall document this information in the child's  
25 case plan. Reunification services are subject to the applicable time  
26 limitations imposed in subdivision (a). Services may include, but  
27 shall not be limited to, all of the following:

28 (A) Maintaining contact between the parent and child through  
29 collect telephone calls.

30 (B) Transportation services, ~~where~~ *when* appropriate.

31 (C) Visitation services, ~~where~~ *when* appropriate.

32 (D) Reasonable services to extended family members or foster  
33 parents providing care for the child if the services are not  
34 detrimental to the child.

35 An incarcerated or detained parent may be required to attend  
36 counseling, parenting classes, or vocational training programs as  
37 part of the reunification service plan if actual access to these  
38 services is provided. The social worker shall document in the  
39 child's case plan the particular barriers to an incarcerated,  
40 institutionalized, or detained parent's access to those

1 court-mandated services and ability to maintain contact with his  
2 or her child.

3 (E) Reasonable efforts to assist parents who have been deported  
4 to contact child welfare authorities in their country of origin, to  
5 identify any available services that would substantially comply  
6 with case plan requirements, to document the parents' participation  
7 in those services, and to accept reports from local child welfare  
8 authorities as to the parents' living situation, progress, and  
9 participation in services.

10 (2) The presiding judge of the juvenile court of each county  
11 may convene representatives of the county welfare department,  
12 the sheriff's department, and other appropriate entities for the  
13 purpose of developing and entering into protocols for ensuring the  
14 notification, transportation, and presence of an incarcerated or  
15 institutionalized parent at all court hearings involving proceedings  
16 affecting the child pursuant to Section 2625 of the Penal Code.  
17 The county welfare department shall utilize the prisoner locator  
18 system developed by the Department of Corrections and  
19 Rehabilitation to facilitate timely and effective notice of hearings  
20 for incarcerated parents.

21 (3) Notwithstanding any other provision of law, if the  
22 incarcerated parent is a woman seeking to participate in the  
23 community treatment program operated by the Department of  
24 Corrections and Rehabilitation pursuant to Chapter 4.8  
25 (commencing with Section 1174) of Title 7 of Part 2 of, Chapter  
26 4 (commencing with Section 3410) of Title 2 of Part 3 of, the Penal  
27 Code, the court shall determine whether the parent's participation  
28 in a program is in the child's best interest and whether it is suitable  
29 to meet the needs of the parent and child.

30 (f) If the court, pursuant to paragraph (2), (3), (4), (5), (6), (7),  
31 (8), (9), (10), (11), (12), (13), (14), (15), or (16) of subdivision (b)  
32 or paragraph (1) of subdivision (e), does not order reunification  
33 services, it shall, at the dispositional hearing, that shall include a  
34 permanency hearing, determine if a hearing under Section 366.26  
35 shall be set in order to determine whether adoption, guardianship,  
36 or long-term foster care, or in the case of an Indian child, in  
37 consultation with the child's tribe, tribal customary adoption, is  
38 the most appropriate plan for the child, and shall consider in-state  
39 and out-of-state placement options. If the court so determines, it  
40 shall conduct the hearing pursuant to Section 366.26 within 120

1 days after the dispositional hearing. However, the court shall not  
2 schedule a hearing so long as the other parent is being provided  
3 reunification services pursuant to subdivision (a). The court may  
4 continue to permit the parent to visit the child unless it finds that  
5 visitation would be detrimental to the child.

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

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

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

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

25 (D) A preliminary assessment of the eligibility and commitment  
26 of any identified prospective adoptive parent or guardian, including  
27 a prospective tribal customary adoptive parent, particularly the  
28 caretaker, to include a social history, including screening for  
29 criminal records and prior referrals for child abuse or neglect, the  
30 capability to meet the child's needs, and the understanding of the  
31 legal and financial rights and responsibilities of adoption and  
32 guardianship. If a proposed guardian is a relative of the minor, the  
33 assessment shall also consider, but need not be limited to, all of  
34 the factors specified in subdivision (a) of Section 361.3 and in  
35 Section 361.4. As used in this subparagraph, "relative" means an  
36 adult who is related to the minor by blood, adoption, or affinity  
37 within the fifth degree of kinship, including stepparents,  
38 stepsiblings, and all relatives whose status is preceded by the words  
39 "great," "great-great," or "grand," or the spouse of any of those  
40 persons even if the marriage was terminated by death or

1 dissolution. If the proposed permanent plan is guardianship with  
2 an approved relative caregiver for a minor eligible for aid under  
3 the Kin-GAP Program, as provided for in Article 4.7 (commencing  
4 with Section 11385) of Chapter 2 of Part 3 of Division 9, “relative”  
5 as used in this section has the same meaning as “relative” as  
6 defined in subdivision (c) of Section 11391.

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

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

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

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

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

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

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

14 (h) If, at any hearing held pursuant to Section 366.26, a  
15 guardianship is established for the minor with an approved relative  
16 caregiver and juvenile court dependency is subsequently dismissed,  
17 the minor shall be eligible for aid under the Kin-GAP Program as  
18 provided for in Article 4.5 (commencing with Section 11360) or  
19 Article 4.7 (commencing with Section 11385) of Chapter 2 of Part  
20 3 of Division 9, as applicable.

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

25 (1) The specific act or omission comprising the severe sexual  
26 abuse or the severe physical harm inflicted on the child or the  
27 child's sibling or half sibling.

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

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

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

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

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

39 (j) When the court determines that reunification services will  
40 not be ordered, it shall order that the child's caregiver receive the

1 child's birth certificate in accordance with Sections 16010.4 and  
2 16010.5. Additionally, when the court determines that reunification  
3 services will not be ordered, it shall order, when appropriate, that  
4 a child who is 16 years of age or older receive his or her birth  
5 certificate.

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

12 SEC. 2. Section 366.1 of the Welfare and Institutions Code is  
13 amended to read:

14 366.1. Each supplemental report required to be filed pursuant  
15 to Section 366 shall include, but not be limited to, a factual  
16 discussion of each of the following subjects:

17 (a) Whether the county welfare department social worker has  
18 considered ~~either~~ *any* of the following:

19 (1) Child protective services, as defined in Chapter 5  
20 (commencing with Section 16500) of Part 4 of Division 9, as a  
21 possible solution to the problems at hand, and has offered those  
22 services to qualified parents, if appropriate under the circumstances.

23 (2) Whether the child can be returned to the custody of his or  
24 her parent who is enrolled in a certified substance abuse treatment  
25 facility that allows a dependent child to reside with his or her  
26 parent.

27 (3) *If the parent is in substantial compliance with the case plan  
28 and a lack of housing is the sole impediment to family reunification,  
29 the services offered by the county welfare department to assist the  
30 parent in securing appropriate housing.*

31 (b) What plan, if any, for the return and maintenance of the  
32 child in a safe home is recommended to the court by the county  
33 welfare department social worker.

34 (c) Whether the subject child appears to be a person who is  
35 eligible to be considered for further court action to free the child  
36 from parental custody and control.

37 (d) What actions, if any, have been taken by the parent to correct  
38 the problems that caused the child to be made a dependent child  
39 of the court.

1 (e) If the parent or guardian is unwilling or unable to participate  
2 in making an educational decision for his or her child, or if other  
3 circumstances exist that compromise the ability of the parent or  
4 guardian to make educational decisions for the child, the county  
5 welfare department or social worker shall consider whether the  
6 right of the parent or guardian to make educational decisions for  
7 the child should be limited. If the supplemental report makes that  
8 recommendation, the report shall identify whether there is a  
9 responsible adult available to make educational decisions for the  
10 child pursuant to Section 361.

11 (f) (1) Whether the child has any siblings under the court's  
12 jurisdiction, and, if any siblings exist, all of the following:

13 (A) The nature of the relationship between the child and his or  
14 her siblings.

15 (B) The appropriateness of developing or maintaining the sibling  
16 relationships pursuant to Section 16002.

17 (C) If the siblings are not placed together in the same home,  
18 why the siblings are not placed together and what efforts are being  
19 made to place the siblings together, or why those efforts are not  
20 appropriate.

21 (D) If the siblings are not placed together, all of the following:

22 (i) The frequency and nature of the visits between the siblings.

23 (ii) If there are visits between the siblings, whether the visits  
24 are supervised or unsupervised. If the visits are supervised, a  
25 discussion of the reasons why the visits are supervised, and what  
26 needs to be accomplished in order for the visits to be unsupervised.

27 (iii) If there are visits between the siblings, a description of the  
28 location and length of the visits.

29 (iv) Any plan to increase visitation between the siblings.

30 (E) The impact of the sibling relationships on the child's  
31 placement and planning for legal permanence.

32 (2) The factual discussion shall include a discussion of indicators  
33 of the nature of the child's sibling relationships, including, but not  
34 limited to, whether the siblings were raised together in the same  
35 home, whether the siblings have shared significant common  
36 experiences or have existing close and strong bonds, whether either  
37 sibling expresses a desire to visit or live with his or her sibling, as  
38 applicable, and whether ongoing contact is in the child's best  
39 emotional interests.

1 (g) Whether a child who is 10 years of age or older and who  
2 has been in an out-of-home placement for six months or longer  
3 has relationships with individuals other than the child's siblings  
4 that are important to the child, consistent with the child's best  
5 interests, and actions taken to maintain those relationships. The  
6 social worker shall ask every child who is 10 years of age or older  
7 and who has been in an out-of-home placement for six months or  
8 longer to identify any individuals other than the child's siblings  
9 who are important to the child, consistent with the child's best  
10 interest. The social worker may ask any other child to provide that  
11 information, as appropriate.

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

16 SEC. 3. Section 366.21 of the Welfare and Institutions Code  
17 is amended to read:

18 366.21. (a) Every hearing conducted by the juvenile court  
19 reviewing the status of a dependent child shall be placed on the  
20 appearance calendar. The court shall advise all persons present at  
21 the hearing of the date of the future hearing and of their right to  
22 be present and represented by counsel.

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

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

1 (e) relating to the child’s sibling group. If the recommendation is  
2 not to return the child to a parent or legal guardian, the report shall  
3 specify why the return of the child would be detrimental to the  
4 child. The social worker shall provide the parent or legal guardian,  
5 counsel for the child, and any court-appointed child advocate with  
6 a copy of the report, including his or her recommendation for  
7 disposition, at least 10 calendar days prior to the hearing. In the  
8 case of a child removed from the physical custody of his or her  
9 parent or legal guardian, the social worker shall, at least 10 calendar  
10 days prior to the hearing, provide a summary of his or her  
11 recommendation for disposition to any foster parents, relative  
12 caregivers, and certified foster parents who have been approved  
13 for adoption by the State Department of Social Services when it  
14 is acting as an adoption agency or by a county adoption agency,  
15 community care facility, or foster family agency having the  
16 physical custody of the child. The social worker shall include a  
17 copy of the Judicial Council Caregiver Information Form (JV-290)  
18 with the summary of recommendations to the child’s foster parents,  
19 relative caregivers, or foster parents approved for adoption, in the  
20 caregiver’s primary language when available, along with  
21 information on how to file the form with the court.

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

1 and recommendation filed pursuant to this subdivision prior to  
2 determining any disposition.

3 (e) (1) At the review hearing held six months after the initial  
4 dispositional hearing, but no later than 12 months after the date  
5 the child entered foster care as determined in Section 361.49,  
6 whichever occurs earlier, after considering the admissible and  
7 relevant evidence, the court shall order the return of the child to  
8 the physical custody of his or her parent or legal guardian unless  
9 the court finds, by a preponderance of the evidence, that the return  
10 of the child to his or her parent or legal guardian would create a  
11 substantial risk of detriment to the safety, protection, or physical  
12 or emotional well-being of the child. The social worker shall have  
13 the burden of establishing that detriment. At the hearing, the court  
14 shall consider the criminal history, obtained pursuant to paragraph  
15 (1) of subdivision (f) of Section 16504.5, of the parent or legal  
16 guardian subsequent to the child's removal to the extent that the  
17 criminal record is substantially related to the welfare of the child  
18 or the parent's or guardian's ability to exercise custody and control  
19 regarding his or her child, provided the parent or legal guardian  
20 agreed to submit fingerprint images to obtain criminal history  
21 information as part of the case plan. The court shall also consider  
22 whether the child can be returned to the custody of his or her parent  
23 who is enrolled in a certified substance abuse treatment facility  
24 that allows a dependent child to reside with his or her parent. The  
25 fact that the parent is enrolled in a certified substance abuse  
26 treatment facility shall not be, for that reason alone, prima facie  
27 evidence of detriment. The failure of the parent or legal guardian  
28 to participate regularly and make substantive progress in  
29 court-ordered treatment programs shall be prima facie evidence  
30 that return would be detrimental. In making its determination, the  
31 court shall review and consider the social worker's report and  
32 recommendations and the report and recommendations of any child  
33 advocate appointed pursuant to Section 356.5; and shall consider  
34 the efforts or progress, or both, demonstrated by the parent or legal  
35 guardian and the extent to which he or she availed himself or  
36 herself of services provided, taking into account the particular  
37 barriers to a minor parent or a nonminor dependent parent, or an  
38 incarcerated, institutionalized, detained, *homeless*, or deported  
39 parent's or legal guardian's access to those court-mandated services  
40 and ability to maintain contact with his or her child. *The court*

1 *shall also consider whether the parent is in substantial compliance*  
2 *with the court-ordered case plan, whether lack of housing is the*  
3 *sole impediment to family reunification, and whether the child can*  
4 *be returned to the parent upon the parent securing appropriate*  
5 *housing. In making its determination, the court shall review and*  
6 *consider the services provided by the county, and the efforts,*  
7 *progress, or both demonstrated by the parent, and the extent to*  
8 *which he or she availed himself or herself of services provided,*  
9 *taking into account the particular barriers to a homeless parent's*  
10 *access to those services and ability to maintain contact with his*  
11 *or her child. If the parent is in substantial compliance with the*  
12 *court-ordered case plan and lack of housing is the sole impediment*  
13 *to family reunification, the court may order that the child be*  
14 *returned to the parent's physical custody within five days after the*  
15 *parent has secured appropriate housing.*

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

29 (3) If the child was under three years of age on the date of the  
30 initial removal, or is a member of a sibling group described in  
31 subparagraph (C) of paragraph (1) of subdivision (a) of Section  
32 361.5, and the court finds by clear and convincing evidence that  
33 the parent failed to participate regularly and make substantive  
34 progress in a court-ordered treatment plan, the court may schedule  
35 a hearing pursuant to Section 366.26 within 120 days. If, however,  
36 the court finds there is a substantial probability that the child, who  
37 was under three years of age on the date of initial removal or is a  
38 member of a sibling group described in subparagraph (C) of  
39 paragraph (1) of subdivision (a) of Section 361.5, may be returned  
40 to his or her parent or legal guardian within six months or that

1 reasonable services have not been provided, the court shall continue  
2 the case to the 12-month permanency hearing.

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

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

38 (6) If the child had been placed under court supervision with a  
39 previously noncustodial parent pursuant to Section 361.2, the court  
40 shall determine whether supervision is still necessary. The court

1 may terminate supervision and transfer permanent custody to that  
2 parent, as provided for by paragraph (1) of subdivision (b) of  
3 Section 361.2.

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

9 (8) If the child is not returned to his or her parent or legal  
10 guardian, the court shall determine whether reasonable services  
11 that were designed to aid the parent or legal guardian in  
12 overcoming the problems that led to the initial removal and the  
13 continued custody of the child have been provided or offered to  
14 the parent or legal guardian. The court shall order that those  
15 services be initiated, continued, or terminated.

16 (f) (1) The permanency hearing shall be held no later than 12  
17 months after the date the child entered foster care, as that date is  
18 determined pursuant to Section 361.49. At the permanency hearing,  
19 the court shall determine the permanent plan for the child, which  
20 shall include a determination of whether the child will be returned  
21 to the child's home and, if so, when, within the time limits of  
22 subdivision (a) of Section 361.5. After considering the relevant  
23 and admissible evidence, the court shall order the return of the  
24 child to the physical custody of his or her parent or legal guardian  
25 unless the court finds, by a preponderance of the evidence, that  
26 the return of the child to his or her parent or legal guardian would  
27 create a substantial risk of detriment to the safety, protection, or  
28 physical or emotional well-being of the child. The social worker  
29 shall have the burden of establishing that detriment.

30 (A) At the permanency hearing, the court shall consider the  
31 criminal history, obtained pursuant to paragraph (1) of subdivision  
32 (f) of Section 16504.5, of the parent or legal guardian subsequent  
33 to the child's removal to the extent that the criminal record is  
34 substantially related to the welfare of the child or the parent's or  
35 legal guardian's ability to exercise custody and control regarding  
36 his or her child, provided that the parent or legal guardian agreed  
37 to submit fingerprint images to obtain criminal history information  
38 as part of the case plan. The court shall also determine whether  
39 reasonable services that were designed to aid the parent or legal  
40 guardian to overcome the problems that led to the initial removal

1 and continued custody of the child have been provided or offered  
2 to the parent or legal guardian.

3 (B) The court shall also consider whether the child can be  
4 returned to the custody of his or her parent who is enrolled in a  
5 certified substance abuse treatment facility that allows a dependent  
6 child to reside with his or her parent. The fact that the parent is  
7 enrolled in a certified substance abuse treatment facility shall not  
8 be, for that reason alone, prima facie evidence of detriment. The  
9 failure of the parent or legal guardian to participate regularly and  
10 make substantive progress in court-ordered treatment programs  
11 shall be prima facie evidence that return would be detrimental.

12 (C) In making its determination, the court shall review and  
13 consider the social worker's report and recommendations and the  
14 report and recommendations of any child advocate appointed  
15 pursuant to Section 356.5, shall consider the efforts or progress,  
16 or both, demonstrated by the parent or legal guardian and the extent  
17 to which he or she availed himself or herself of services provided,  
18 taking into account the particular barriers to a minor parent or a  
19 nonminor dependent parent, or an incarcerated, institutionalized,  
20 detained, *homeless*, or deported parent's or legal guardian's access  
21 to those court-mandated services and ability to maintain contact  
22 with his or her child, and shall make appropriate findings pursuant  
23 to subdivision (a) of Section 366.

24 (D) *The court shall also consider whether the parent is in*  
25 *substantial compliance with the court-ordered case plan, whether*  
26 *lack of housing is the sole impediment to family reunification, and*  
27 *whether the child can be returned to the parent upon the parent*  
28 *securing appropriate housing. In making its determination, the*  
29 *court shall review and consider the services provided by the county,*  
30 *and the efforts, progress, or both demonstrated by the parent, and*  
31 *the extent to which he or she availed himself or herself of services*  
32 *provided, taking into account the particular barriers to a homeless*  
33 *parent's access to those services and ability to maintain contact*  
34 *with his or her child. If the parent is in substantial compliance*  
35 *with the court-ordered case plan and lack of housing is the sole*  
36 *impediment to family reunification, the court may order that the*  
37 *child be returned to the parent's physical custody within five days*  
38 *after the parent has secured appropriate housing.*

39 (⊕)

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

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

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

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

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

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

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

8 For

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

16 (i) Whether tribal customary adoption would or would not be  
17 detrimental to the Indian child and the reasons for reaching that  
18 conclusion.

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

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

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

1 (j) If, at any hearing held pursuant to Section 366.26, a  
2 guardianship is established for the minor with an approved relative  
3 caregiver, and juvenile court dependency is subsequently  
4 dismissed, the minor shall be eligible for aid under the Kin-GAP  
5 Program, as provided for in Article 4.5 (commencing with Section  
6 11360) or Article 4.7 (commencing with Section 11385), as  
7 applicable, of Chapter 2 of Part 3 of Division 9.

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

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

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

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

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

30 SEC. 4. Section 366.215 of the Welfare and Institutions Code  
31 is amended to read:

32 366.215. With respect to a hearing held pursuant to subdivision  
33 (e) of Section 366.21, if the child in question was under three years  
34 of age on the date of the initial removal, or is a member of a sibling  
35 group described in subparagraph (C) of paragraph (1) of  
36 subdivision (a) of Section 361.5, the court, in determining whether  
37 to schedule a hearing pursuant to Section 366.26, shall take into  
38 account any particular barriers to a parent’s ability to maintain  
39 contact with his or her child due to the parent’s incarceration,

1 institutionalization, *homelessness*, detention by the United States  
2 Department of Homeland Security, or deportation.

3 SEC. 5. Section 366.22 of the Welfare and Institutions Code  
4 is amended to read:

5 366.22. (a) (1) When a case has been continued pursuant to  
6 paragraph (1) or (2) of subdivision (g) of Section 366.21, the  
7 permanency review hearing shall occur within 18 months after the  
8 date the child was originally removed from the physical custody  
9 of his or her parent or legal guardian. After considering the  
10 admissible and relevant evidence, the court shall order the return  
11 of the child to the physical custody of his or her parent or legal  
12 guardian unless the court finds, by a preponderance of the evidence,  
13 that the return of the child to his or her parent or legal guardian  
14 would create a substantial risk of detriment to the safety, protection,  
15 or physical or emotional well-being of the child. The social worker  
16 shall have the burden of establishing that detriment. At the  
17 permanency review hearing, the court shall consider the criminal  
18 history, obtained pursuant to paragraph (1) of subdivision (f) of  
19 Section 16504.5, of the parent or legal guardian subsequent to the  
20 child's removal, to the extent that the criminal record is  
21 substantially related to the welfare of the child or the parent's or  
22 legal guardian's ability to exercise custody and control regarding  
23 his or her child, provided that the parent or legal guardian agreed  
24 to submit fingerprint images to obtain criminal history information  
25 as part of the case plan. The court shall also consider whether the  
26 child can be returned to the custody of his or her parent who is  
27 enrolled in a certified substance abuse treatment facility that allows  
28 a dependent child to reside with his or her parent. The fact that the  
29 parent is enrolled in a certified substance abuse treatment facility  
30 shall not be, for that reason alone, *prima facie* evidence of  
31 detriment. The failure of the parent or legal guardian to participate  
32 regularly and make substantive progress in court-ordered treatment  
33 programs shall be *prima facie* evidence that return would be  
34 detrimental. In making its determination, the court shall review  
35 and consider the social worker's report and recommendations and  
36 the report and recommendations of any child advocate appointed  
37 pursuant to Section 356.5; shall consider the efforts or progress,  
38 or both, demonstrated by the parent or legal guardian and the extent  
39 to which he or she availed himself or herself of services provided,  
40 taking into account the particular barriers of a minor parent or a

1 nonminor dependent parent, or an ~~incarcerated or institutionalized~~  
2 *incarcerated, institutionalized, or homeless* parent's or legal  
3 guardian's access to those court-mandated services and ability to  
4 maintain contact with his or her child; and shall make appropriate  
5 findings pursuant to subdivision (a) of Section 366. *The court shall*  
6 *also consider whether the parent is in substantial compliance with*  
7 *the court-ordered case plan, whether lack of housing is the sole*  
8 *impediment to family reunification, and whether the child can be*  
9 *returned to the parent upon the parent securing appropriate*  
10 *housing. In making its determination, the court shall review and*  
11 *consider the services provided by the county, and the efforts,*  
12 *progress, or both demonstrated by the parent, and the extent to*  
13 *which he or she availed himself or herself of services provided,*  
14 *taking into account the particular barriers to a homeless parent's*  
15 *access to those services and ability to maintain contact with his*  
16 *or her child. If the parent is in substantial compliance with the*  
17 *court-ordered case plan and lack of housing is the sole impediment*  
18 *to family reunification, the court may order that the child be*  
19 *returned to the parent's physical custody within five days after the*  
20 *parent has secured appropriate housing.*

21 (2) Whether or not the child is returned to his or her parent or  
22 legal guardian, the court shall specify the factual basis for its  
23 decision. If the child is not returned to a parent or legal guardian,  
24 the court shall specify the factual basis for its conclusion that return  
25 would be detrimental. If the child is not returned to his or her parent  
26 or legal guardian, the court shall consider, and state for the record,  
27 in-state and out-of-state options for the child's permanent  
28 placement. If the child is placed out of the state, the court shall  
29 make a determination whether the out-of-state placement continues  
30 to be appropriate and in the best interests of the child.

31 (3) Unless the conditions in subdivision (b) are met and the  
32 child is not returned to a parent or legal guardian at the permanency  
33 review hearing, the court shall order that a hearing be held pursuant  
34 to Section 366.26 in order to determine whether adoption, or, in  
35 the case of an Indian child, in consultation with the child's tribe,  
36 tribal customary adoption, guardianship, or continued placement  
37 in foster care is the most appropriate plan for the child. On and  
38 after January 1, 2012, a hearing pursuant to Section 366.26 shall  
39 not be ordered if the child is a nonminor dependent, unless the  
40 nonminor dependent is an Indian child, and tribal customary

1 adoption is recommended as the permanent plan. However, if the  
2 court finds by clear and convincing evidence, based on the evidence  
3 already presented to it, including a recommendation by the State  
4 Department of Social Services when it is acting as an adoption  
5 agency or by a county adoption agency, that there is a compelling  
6 reason, as described in paragraph (5) of subdivision (g) of Section  
7 366.21, for determining that a hearing held under Section 366.26  
8 is not in the best interests of the child because the child is not a  
9 proper subject for adoption and has no one willing to accept legal  
10 guardianship as of the hearing date, the court may, only under  
11 these circumstances, order that the child remain in foster care with  
12 a permanent plan of return home, adoption, tribal customary  
13 adoption in the case of an Indian child, legal guardianship, or  
14 placement with a fit and willing relative, as appropriate. If the  
15 child is 16 years of age or older or is a nonminor dependent, and  
16 no other permanent plan is appropriate at the time of the hearing,  
17 the court may order another planned permanent living arrangement,  
18 as described in paragraph (2) of subdivision (i) of Section 16501.  
19 The court shall make factual findings identifying any barriers to  
20 achieving the permanent plan as of the hearing date. On and after  
21 January 1, 2012, the nonminor dependent's legal status as an adult  
22 is in and of itself a compelling reason not to hold a hearing pursuant  
23 to Section 366.26. The court may order that a nonminor dependent  
24 who otherwise is eligible pursuant to Section 11403 remain in a  
25 planned, permanent living arrangement. If the court orders that a  
26 child who is 10 years of age or older remain in foster care, the  
27 court shall determine whether the agency has made reasonable  
28 efforts to maintain the child's relationships with individuals other  
29 than the child's siblings who are important to the child, consistent  
30 with the child's best interests, and may make any appropriate order  
31 to ensure that those relationships are maintained. The hearing shall  
32 be held no later than 120 days from the date of the permanency  
33 review hearing. The court shall also order termination of  
34 reunification services to the parent or legal guardian. The court  
35 shall continue to permit the parent or legal guardian to visit the  
36 child unless it finds that visitation would be detrimental to the  
37 child. The court shall determine whether reasonable services have  
38 been offered or provided to the parent or legal guardian. For  
39 purposes of this subdivision, evidence of any of the following

1 circumstances shall not, in and of themselves, be deemed a failure  
2 to provide or offer reasonable services:

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

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

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

10 (b) If the child is not returned to a parent or legal guardian at  
11 the permanency review hearing and the court determines by clear  
12 and convincing evidence that the best interests of the child would  
13 be met by the provision of additional reunification services to a  
14 parent or legal guardian who is making significant and consistent  
15 progress in a court-ordered residential substance abuse treatment  
16 program, a parent who was either a minor parent or a nonminor  
17 dependent parent at the time of the initial hearing making  
18 significant and consistent progress in establishing a safe home for  
19 the child's return, or a parent recently discharged from  
20 incarceration, institutionalization, or the custody of the United  
21 States Department of Homeland Security *or a parent who is*  
22 *homeless* and making significant and consistent progress in  
23 establishing a safe home for the child's return, the court may  
24 continue the case for up to six months for a subsequent permanency  
25 review hearing, provided that the hearing shall occur within 24  
26 months of the date the child was originally taken from the physical  
27 custody of his or her parent or legal guardian. The court shall  
28 continue the case only if it finds that there is a substantial  
29 probability that the child will be returned to the physical custody  
30 of his or her parent or legal guardian and safely maintained in the  
31 home within the extended period of time or that reasonable services  
32 have not been provided to the parent or legal guardian. For the  
33 purposes of this section, in order to find a substantial probability  
34 that the child will be returned to the physical custody of his or her  
35 parent or legal guardian and safely maintained in the home within  
36 the extended period of time, the court shall be required to find all  
37 of the following:

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

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

4 (3) The parent or legal guardian has demonstrated the capacity  
5 and ability both to complete the objectives of his or her substance  
6 abuse treatment plan as evidenced by reports from a substance  
7 abuse provider as applicable, or complete a treatment plan  
8 postdischarge from incarceration, institutionalization, or detention,  
9 or following deportation to his or her country of origin and his or  
10 her return to the United States, *or to locate housing*, and to provide  
11 for the child’s safety, protection, physical and emotional  
12 well-being, and special needs.

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

19 The court shall inform the parent or legal guardian that if the  
20 child cannot be returned home by the subsequent permanency  
21 review hearing, a proceeding pursuant to Section 366.26 may be  
22 instituted. The court shall not order that a hearing pursuant to  
23 Section 366.26 be held unless there is clear and convincing  
24 evidence that reasonable services have been provided or offered  
25 to the parent or legal guardian.

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

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

33 (B) A review of the amount of and nature of any contact between  
34 the child and his or her parents and other members of his or her  
35 extended family since the time of placement. Although the  
36 extended family of each child shall be reviewed on a case-by-case  
37 basis, “extended family” for the purposes of this subparagraph  
38 shall include, but not be limited to, the child’s siblings,  
39 grandparents, aunts, and uncles.

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

3 (D) A preliminary assessment of the eligibility and commitment  
4 of any identified prospective adoptive parent or legal guardian,  
5 particularly the caretaker, to include a social history including  
6 screening for criminal records and prior referrals for child abuse  
7 or neglect, the capability to meet the child’s needs, and the  
8 understanding of the legal and financial rights and responsibilities  
9 of adoption and guardianship. If a proposed legal guardian is a  
10 relative of the minor, the assessment shall also consider, but need  
11 not be limited to, all of the factors specified in subdivision (a) of  
12 Section 361.3 and Section 361.4.

13 (E) The relationship of the child to any identified prospective  
14 adoptive parent or legal guardian, the duration and character of  
15 the relationship, the degree of attachment of the child to the  
16 prospective relative guardian or adoptive parent, the relative’s or  
17 adoptive parent’s strong commitment to caring permanently for  
18 the child, the motivation for seeking adoption or legal guardianship,  
19 a statement from the child concerning placement and the adoption  
20 or legal guardianship, and whether the child, if over 12 years of  
21 age, has been consulted about the proposed relative guardianship  
22 arrangements, unless the child’s age or physical, emotional, or  
23 other condition precludes his or her meaningful response, and if  
24 so, a description of the condition.

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

27 (G) In the case of an Indian child, in addition to subparagraphs  
28 (A) to (F), inclusive, an assessment of the likelihood that the child  
29 will be adopted, when, in consultation with the child’s tribe, a  
30 tribal customary adoption, as defined in Section 366.24, is  
31 recommended. If tribal customary adoption is recommended, the  
32 assessment shall include an analysis of both of the following:

33 (i) Whether tribal customary adoption would or would not be  
34 detrimental to the Indian child and the reasons for reaching that  
35 conclusion.

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

39 (2) (A) A relative caregiver’s preference for legal guardianship  
40 over adoption, if it is due to circumstances that do not include an

1 unwillingness to accept legal or financial responsibility for the  
2 child, shall not constitute the sole basis for recommending removal  
3 of the child from the relative caregiver for purposes of adoptive  
4 placement.

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

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

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

38 SEC. 6. Section 366.25 of the Welfare and Institutions Code  
39 is amended to read:

1 366.25. (a) (1) When a case has been continued pursuant to  
2 subdivision (b) of Section 366.22, the subsequent permanency  
3 review hearing shall occur within 24 months after the date the  
4 child was originally removed from the physical custody of his or  
5 her parent or legal guardian. After considering the relevant and  
6 admissible evidence, the court shall order the return of the child  
7 to the physical custody of his or her parent or legal guardian unless  
8 the court finds, by a preponderance of the evidence, that the return  
9 of the child to his or her parent or legal guardian would create a  
10 substantial risk of detriment to the safety, protection, or physical  
11 or emotional well-being of the child. The social worker shall have  
12 the burden of establishing that detriment. At the subsequent  
13 permanency review hearing, the court shall consider the criminal  
14 history, obtained pursuant to paragraph (1) of subdivision (f) of  
15 Section 16504.5, of the parent or legal guardian subsequent to the  
16 child's removal to the extent that the criminal record is substantially  
17 related to the welfare of the child or parent's or legal guardian's  
18 ability to exercise custody and control regarding his or her child  
19 provided that the parent or legal guardian agreed to submit  
20 fingerprint images to obtain criminal history information as part  
21 of the case plan. The court shall also consider whether the child  
22 can be returned to the custody of a parent who is enrolled in a  
23 certified substance abuse treatment facility that allows a dependent  
24 child to reside with his or her parent. The fact that the parent is  
25 enrolled in a certified substance abuse treatment facility shall not  
26 be, for that reason alone, prima facie evidence of detriment. The  
27 failure of the parent or legal guardian to participate regularly and  
28 make substantive progress in court-ordered treatment programs  
29 shall be prima facie evidence that return would be detrimental. In  
30 making its determination, the court shall review and consider the  
31 social worker's report and recommendations and the report and  
32 recommendations of any child advocate appointed pursuant to  
33 Section 356.5; shall consider the efforts or progress, or both,  
34 demonstrated by the parent or legal guardian and the extent to  
35 which he or she availed himself or herself of services provided;  
36 and shall make appropriate findings pursuant to subdivision (a) of  
37 Section 366. *The court shall also consider whether the parent is*  
38 *in substantial compliance with the court-ordered case plan,*  
39 *whether lack of housing is the sole impediment to family*  
40 *reunification, and whether the child can be returned to the parent*

1 upon the parent securing appropriate housing. In making its  
2 determination, the court shall review and consider the services  
3 provided by the county, and the efforts, progress, or both  
4 demonstrated by the parent, and the extent to which he or she  
5 availed himself or herself of services provided, taking into account  
6 the particular barriers to a homeless parent's access to those  
7 services and ability to maintain contact with his or her child. If  
8 the parent is in substantial compliance with the court-ordered case  
9 plan and lack of housing is the sole impediment to family  
10 reunification, the court may order that the child be returned to the  
11 parent's physical custody within five days after the parent has  
12 secured appropriate housing.

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

23 (3) If the child is not returned to a parent or legal guardian at  
24 the subsequent permanency review hearing, the court shall order  
25 that a hearing be held pursuant to Section 366.26 in order to  
26 determine whether adoption, or, in the case of an Indian child,  
27 tribal customary adoption, guardianship, or, in the case of a child  
28 16 years of age or older when no other permanent plan is  
29 appropriate, another planned permanent living arrangement is the  
30 most appropriate plan for the child. On and after January 1, 2012,  
31 a hearing pursuant to Section 366.26 shall not be ordered if the  
32 child is a nonminor dependent, unless the nonminor dependent is  
33 an Indian child and tribal customary adoption is recommended as  
34 the permanent plan. However, if the court finds by clear and  
35 convincing evidence, based on the evidence already presented to  
36 it, including a recommendation by the State Department of Social  
37 Services when it is acting as an adoption agency or by a county  
38 adoption agency, that there is a compelling reason, as described  
39 in paragraph (5) of subdivision (g) of Section 366.21, for  
40 determining that a hearing held under Section 366.26 is not in the

1 best interest of the child because the child is not a proper subject  
2 for adoption or, in the case of an Indian child, tribal customary  
3 adoption, and has no one willing to accept legal guardianship as  
4 of the hearing date, then the court may, only under these  
5 circumstances, order that the child remain in foster care with a  
6 permanent plan of return home, adoption, tribal customary adoption  
7 in the case of an Indian child, legal guardianship, or placement  
8 with a fit and willing relative, as appropriate. If the child is 16  
9 years of age or older or is a nonminor dependent, and no other  
10 permanent plan is appropriate at the time of the hearing, the court  
11 may order another planned permanent living arrangement, as  
12 described in paragraph (2) of subdivision (i) of Section 16501.  
13 The court shall make factual findings identifying any barriers to  
14 achieving the permanent plan as of the hearing date. On and after  
15 January 1, 2012, the nonminor dependent's legal status as an adult  
16 is in and of itself a compelling reason not to hold a hearing pursuant  
17 to Section 366.26. The court may order that a nonminor dependent  
18 who otherwise is eligible pursuant to Section 11403 remain in a  
19 planned, permanent living arrangement. If the court orders that a  
20 child who is 10 years of age or older remain in foster care, the  
21 court shall determine whether the agency has made reasonable  
22 efforts to maintain the child's relationships with individuals other  
23 than the child's siblings who are important to the child, consistent  
24 with the child's best interests, and may make any appropriate order  
25 to ensure that those relationships are maintained. The hearing shall  
26 be held no later than 120 days from the date of the subsequent  
27 permanency review hearing. The court shall also order termination  
28 of reunification services to the parent or legal guardian. The court  
29 shall continue to permit the parent or legal guardian to visit the  
30 child unless it finds that visitation would be detrimental to the  
31 child. The court shall determine whether reasonable services have  
32 been offered or provided to the parent or legal guardian. For  
33 purposes of this paragraph, evidence of any of the following  
34 circumstances shall not, in and of themselves, be deemed a failure  
35 to provide or offer reasonable services:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 11360) or Article 4.7 (commencing with Section 11385), as  
2 applicable, of Chapter 2 of Part 3 of Division 9.

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

15 SEC. 7. Section 16500.1 of the Welfare and Institutions Code  
16 is amended to read:

17 16500.1. (a) It is the intent of the Legislature to use the  
18 strengths of families and communities to serve the needs of children  
19 who are alleged to be abused or neglected, as described in Section  
20 300, to reduce the necessity for removing these children from their  
21 home, to encourage speedy reunification of families when it can  
22 be safely accomplished, *to reduce the length of stay in out-of-home*  
23 *care and hasten reunification when it can be safely accomplished*  
24 *and lack of housing is the only impediment to reunification*, to  
25 locate permanent homes and families for children who cannot  
26 return to their biological families, to reduce the number of  
27 placements experienced by these children, to ensure that children  
28 leaving the foster care system have support within their  
29 communities, to improve the quality and homelike nature of  
30 out-of-home care, and to foster the educational progress of children  
31 in out-of-home care.

32 (b) In order to achieve the goals specified in subdivision (a),  
33 the state shall encourage the development of approaches to child  
34 protection that do all of the following:

35 (1) Allow children to remain in their own schools, in close  
36 proximity to their families.

37 (2) Increase the number and quality of foster families available  
38 to serve these children.

39 (3) Use a team approach to foster care that permits the biological  
40 and foster family and the child to be part of that team.

- 1 (4) Use team decisionmaking in case planning.
- 2 (5) Provide support to foster children and foster families.
- 3 (6) Ensure that licensing requirements do not create barriers to  
4 recruitment of qualified, high-quality foster homes.
- 5 (7) Provide training for foster parents and professional staff on  
6 working effectively with families and communities.
- 7 (8) Encourage foster parents to serve as mentors and role models  
8 for biological parents.
- 9 (9) Use community resources, including community-based  
10 agencies and volunteer organizations, to assist in developing  
11 placements for children and to provide support for children and  
12 their families.
- 13 (10) Ensure an appropriate array of placement resources for  
14 children in need of out-of-home care.
- 15 (11) Ensure that no child leaves foster care without a lifelong  
16 connection to a committed adult.
- 17 (12) Ensure that children are actively involved in the case plan  
18 and permanency planning process.
- 19 *(13) Provide housing and supportive services to parents who*  
20 *are in substantial compliance with their case plan and lack of*  
21 *housing is the only impediment to family reunification.*
- 22 (c) (1) Each county shall provide the department with a disaster  
23 response plan describing how county programs assisted under Part  
24 B (commencing with Section 620) and Part E (commencing with  
25 Section 670) of Subchapter IV of Chapter 7 of Title 42 of the  
26 United States Code (Titles IV-B and IV-E of the Social Security  
27 Act) would respond to a disaster. The plan shall set forth  
28 procedures describing how each county will perform the following  
29 services:
  - 30 (A) Identify, locate, and continue availability of services for  
31 children under state care or supervision who are displaced or  
32 adversely affected by a disaster.
  - 33 (B) Respond, as appropriate, to new child welfare cases in areas  
34 adversely affected by a disaster, and provide services in those  
35 cases.
  - 36 (C) Remain in communication with caseworkers and other  
37 essential child welfare personnel who are displaced because of a  
38 disaster.
  - 39 (D) Preserve essential program records.

1 (E) Coordinate services and share information with other  
2 counties.

3 (2) The department shall review its disaster plan with respect  
4 to subparagraphs (A) to (E), inclusive, of paragraph (1), and shall  
5 revise the plan to clarify the role and responsibilities of the state  
6 in the event of a disaster.

7 (3) The department shall consult with counties to identify  
8 opportunities for collaboration between counties, and between the  
9 county and the state, in the event of a disaster.

10 (d) In carrying out the requirements of subdivisions (b) and (c),  
11 the department shall do all of the following:

12 (1) Consider the existing array of program models provided in  
13 statute and in practice, including, but not limited to, wraparound  
14 services, as defined in Section 18251, children's systems of care,  
15 as provided for in Section 5852, the Oregon Family Unity or Santa  
16 Clara County Family Conference models, which include family  
17 conferences at key points in the casework process, such as when  
18 out-of-home placement or return home is considered, and the Annie  
19 E. Casey Foundation Family to Family initiative, which uses team  
20 decisionmaking in case planning, community-based placement  
21 practices requiring that children be placed in foster care in the  
22 communities where they resided prior to placement, and involve  
23 foster families as team members in family reunification efforts.

24 (2) Ensure that emergency response services, family  
25 maintenance services, family reunification services, and permanent  
26 placement services are coordinated with the implementation of the  
27 models described in paragraph (1).

28 (3) Ensure consistency between child welfare services program  
29 regulations and the program models described in paragraph (1).

30 (e) The department, in conjunction with stakeholders, including,  
31 but not limited to, county child welfare services agencies, foster  
32 parent and group home associations, the California Youth  
33 Connection, and other child advocacy groups, shall review the  
34 existing child welfare services program regulations to ensure that  
35 these regulations are consistent with the legislative intent specified  
36 in subdivision (a). This review shall also determine how to  
37 incorporate the best practice guidelines for assessment of children  
38 and families receiving child welfare and foster care services, as  
39 required by Section 16501.2.

1 (f) The department shall report to the Legislature on the results  
2 of the actions taken under this section on or before January 1, 2002.

3 SEC. 8. Section 16500.5 of the Welfare and Institutions Code  
4 is amended to read:

5 16500.5. (a) (1) The Legislature hereby declares its intent to  
6 encourage the continuity of the family unit by:

7 (A) (i) Providing family preservation services.

8 (ii) For purposes of this subdivision, “family preservation  
9 services” means intensive services for families whose children,  
10 without these services, would be subject to any of the following:

11 (I) Be at imminent risk of out-of-home placement.

12 (II) Remain in existing out-of-home placement for longer periods  
13 of time.

14 (III) Be placed in a more restrictive out-of-home placement.

15 (B) Providing supportive services for those children within the  
16 meaning of Sections 360, 361, and 364 when they are returned to  
17 the family unit or when a minor will probably soon be within the  
18 jurisdiction of the juvenile court pursuant to Section 301.

19 (C) Providing counseling and family support services designed  
20 to eradicate the situation that necessitated intervention.

21 (2) The Legislature finds that maintaining abused and neglected  
22 children in foster care grows increasingly costly each year, and  
23 that adequate funding for family services that might enable these  
24 children to remain in their homes is not as readily available as  
25 funding for foster care placement.

26 (3) The Legislature further finds that other state bodies have  
27 addressed this problem through various systems of flexible  
28 reimbursement in child welfare programs that provide for more  
29 intensive and appropriate services to prevent foster care placement  
30 or significantly reduce the length of stay in foster care.

31 (b) It is the intent of the Legislature that family preservation  
32 and support services in California conform to the federal definitions  
33 contained in Section 431 of the Social Security Act as contained  
34 in Public Law 103-66, the Omnibus Budget Reconciliation Act of  
35 1987. The Legislature finds and declares that California’s existing  
36 family preservation programs meet the intent of the federal  
37 Promoting Safe and Stable Families program.

38 (c) (1) Services that may be provided under this program may  
39 include, but are not limited to, counseling, mental health treatment  
40 and substance abuse treatment services, including treatment at a

1 residential substance abuse treatment facility that accepts families,  
2 parenting, respite, day treatment, transportation, homemaking, ~~and~~  
3 family support ~~services~~. *services, and housing and supportive*  
4 *services for homeless parents of dependent children removed from*  
5 *the physical custody of their parents or guardians if the parent or*  
6 *guardian is in substantial compliance with their case plan and*  
7 *lack of housing is the sole impediment to reunification.* Each county  
8 that chooses to provide mental health treatment and substance  
9 abuse treatment shall identify and develop these services in  
10 consultation with county mental health treatment and substance  
11 abuse treatment agencies. Additional services may include those  
12 enumerated in Sections 16506 and 16507. The services to be  
13 provided pursuant to this section may be determined by each  
14 participating county. Each county may contract with individuals  
15 and organizations for services to be provided pursuant to this  
16 section. Each county shall utilize available private nonprofit  
17 resources in the county prior to developing new county-operated  
18 resources when these private nonprofit resources are of at least  
19 equal quality and costs as county-operated resources and shall  
20 utilize available county resources of at least equal quality and cost  
21 prior to new private nonprofit resources.

22 (2) Participating counties authorized by this subdivision shall  
23 provide specific programs of direct services based on individual  
24 family needs as reflected in the service plans to families of the  
25 following:

26 (A) Children who are dependent children not taken from  
27 physical custody of their parents or guardians pursuant to Section  
28 364.

29 (B) Children who are dependent children removed from the  
30 physical custody of their parents or guardian pursuant to Section  
31 361.

32 (C) Children who it is determined will probably soon be within  
33 the jurisdiction of the juvenile court pursuant to Section 301.

34 (D) Upon approval of the department, children who have been  
35 adjudged wards of the court pursuant to Sections 601 and 602.

36 (E) Upon approval of the department, families of children  
37 subject to Sections 726 and 727.

38 (F) Upon approval of the department, children who are  
39 determined to require out-of-home placement pursuant to Section  
40 7572.5 of the Government Code.

1 (3) The services shall only be provided to families whose  
2 children will be placed in out-of-home care without the provision  
3 of services or to children who can be returned to their families  
4 with the provision of services.

5 (4) The services selected by a participating county shall be  
6 reasonable and meritorious and shall demonstrate cost-effectiveness  
7 and success at avoiding out-of-home placement, or reducing the  
8 length of stay in out-of-home placement. A county shall not expend  
9 more funds for services under this subdivision than that amount  
10 which would be expended for placement in out-of-home care.

11 (5) The program in each county shall be deemed successful if  
12 it meets the following standards:

13 (A) Enables families to resolve their own problems, effectively  
14 utilize service systems, and advocate for their children in  
15 educational and social agencies.

16 (B) Enhancing family functioning by building on family  
17 strengths.

18 (C) At least 75 percent of the children receiving services remain  
19 in their own home for six months after termination of services.

20 (D) During the first year after services are terminated:

21 (i) At least 60 percent of the children receiving services remain  
22 at home one year after services are terminated.

23 (ii) The average length of stay in out-of-home care of children  
24 selected to receive services who have already been removed from  
25 their home and placed in out-of-home care is 50 percent less than  
26 the average length of stay in out-of-home care of children who do  
27 not receive program services.

28 (E) Two years after the termination of family preservation  
29 services:

30 (i) The average length of out-of-home stay of children selected  
31 to receive services under this section who, at the time of selection,  
32 are in out-of-home care, is 50 percent less than the average length  
33 of stay in out-of-home care for children in out-of-home care who  
34 do not receive services pursuant to this section.

35 (ii) At least 60 percent of the children who were returned home  
36 pursuant to this section remain at home.

37 (6) Funds used for services provided under this section shall  
38 supplement, not supplant, child welfare services funds available  
39 for services pursuant to Sections 16506 and 16507.

1 (7) Programs authorized after the original pilot projects shall  
2 submit data to the department upon the department's request.

3 (d) (1) A county welfare department social worker or probation  
4 officer may, pursuant to an appropriate court order, return a  
5 dependent minor or ward of the court removed from the home  
6 pursuant to Section 361 to his or her home, with appropriate  
7 interagency family preservation program services.

8 (2) The county probation department may, with the approval of  
9 the State Department of Social Services, through an interagency  
10 agreement with the county welfare department, refer cases to the  
11 county welfare department for the direct provision of services  
12 under this subdivision.

13 (e) Foster care funds shall remain within the administrative  
14 authority of the county welfare department and shall be used only  
15 for placement services or placement prevention services or county  
16 welfare department administrative cost related to the interagency  
17 family preservation program.

18 (f) To the extent permitted by federal law, any federal funds  
19 provided for services to families and children may be utilized for  
20 the purposes of this section.

21 (g) A county may establish family preservation programs that  
22 serve one or more geographic areas of the county, subject to the  
23 approval of the State Department of Social Services.

24 (1) All funds expended by a county for activities under this  
25 section shall be expended by the county in a manner that will  
26 maximize eligibility for federal financial participation.

27 (2) A county, subject to the approval of the State Department  
28 of Social Services, may claim federal financial participation, if  
29 allowable and available, as provided by the State Department of  
30 Social Services in the federal Promoting Safe and Stable Families  
31 program in accordance with the federal guidelines and regulations  
32 for that county's AFDC-FC expenditures pursuant to subdivision  
33 (d) of Section 11450, for children subject to Sections 300, 301,  
34 360, and 364, in advance, provided that the county conducts a  
35 program of family reunification and family maintenance services  
36 for families receiving these services pursuant to Sections 300, 301,  
37 360, and 364, and as permitted by the department, children subject  
38 to Sections 601, 602, 726, and 727 of this code, and Section 7572.5  
39 of the Government Code.

1 (h) In order to maintain federal funding and meet federal  
2 requirements, the State Department of Social Services and the  
3 Office of Child Abuse Prevention shall provide administrative  
4 oversight, monitoring, and consultation to ensure both of the  
5 following:

6 (1) Each county includes in its county plan information that  
7 details what services are to be funded under this section and who  
8 will be served, and how the services are coordinated with the array  
9 of services available in the county. In order to maintain federal  
10 funding to meet federal requirements, the State Department of  
11 Social Services shall review these plans and provide technical  
12 assistance as needed, as provided in Section 10601.2. In order to  
13 meet federal requirements, the Office of Child Abuse Prevention  
14 shall require counties to submit annual reports, as part of the current  
15 reporting process, on program services and children and families  
16 served. The annual reporting process shall be developed jointly  
17 by the department and county agencies for the purpose of meeting  
18 federal reporting requirements.

19 (2) In order to maximize federal financial participation for the  
20 federal Promoting Safe and Stable Families grant, funds expended  
21 from this program are in compliance with data-reporting  
22 requirements in order to meet federal nonsupplantation  
23 requirements in accordance with Section 1357.32(f) of Title 45 of  
24 the Code of Federal Regulations, and the 25 percent state match  
25 requirement in accordance with Section 1357.32(d) of Title 45 of  
26 the Code of Federal Regulations.

27 (i) Beginning in the 2011–12 fiscal year, and for each fiscal  
28 year thereafter, funding and expenditures for programs and  
29 activities under this section shall be made with moneys allocated  
30 pursuant to Section 30025 of the Government Code.

31 SEC. 9. Section 16517 of the Welfare and Institutions Code is  
32 amended to read:

33 16517. (a) (1) It is the intent of the Legislature to accomplish  
34 ~~both~~ *all* of the following:

35 (A) To prevent the unnecessary separation of children from  
36 their families because of homelessness or the lack of shelter.

37 (B) To assist in the reunification of foster children and their  
38 families when housing remains a problem.

39 (C) *To assist parents in securing appropriate housing and*  
40 *supportive services in order to reduce foster children's length of*

1 *stay in out-of-home care and hasten reunification for foster*  
2 *children and their families when a lack of housing is the sole*  
3 *impediment to reunification.*

4 (2) Through the Section 8 housing certificate program created  
5 by Section 553 of the Cranston-Gonzalez National Affordable  
6 Housing Act (P.L. 101-625), housing assistance may be made  
7 available to families eligible for assistance under this program.

8 (b) (1) For the purposes of the Section 8 housing certificate  
9 program created by Section 553 of the Cranston-Gonzalez National  
10 Affordable Housing Act (P.L. 101-625), the county department of  
11 social services is designated “the public child welfare agency.”

12 (2) If a county chooses to participate in the Section 8 housing  
13 certificate program, all of the following shall occur:

14 (A) The county department of social services shall make the  
15 determination, pursuant to Section 553 of the Cranston-Gonzalez  
16 National Affordable Housing Act (P.L. 101-625), that an eligible  
17 child is at imminent risk of placement in out-of-home care or that  
18 an eligible child in out-of-home care under its supervision may be  
19 returned to his or her family.

20 (B) The county department of social services shall certify an  
21 eligible family as one for which the lack of adequate housing is a  
22 primary factor in the imminent placement of the family’s child or  
23 children in out-of-home care or in the delayed discharge of a child  
24 or children to the family from out-of-home care.

25 (C) The county department of social services shall transmit, in  
26 writing, its certification pursuant to subparagraph (B) to the local  
27 public housing agency responsible, pursuant to Section 34327.3  
28 of the Health and Safety Code, for administering assistance under  
29 the Section 8 housing certificate program.

30 (c) As used in this section, “Section 8” means Section 8 of the  
31 United States Housing Act of 1937 (Sec. 1437 et seq., Title 42,  
32 U.S.C.).

33 (d) The State Department of Social Services may, upon the  
34 request of a local public entity, provide technical assistance for  
35 the purpose of developing applications and plans from the local  
36 public entity for federal funding under the Section 8 housing  
37 certificate program created by Section 553 of the  
38 Cranston-Gonzalez National Affordable Housing Act (P.L.  
39 101-625).

1 (e) The State Department of Social Services is authorized to  
2 adopt emergency regulations in accordance with Chapter 3.5  
3 (commencing with Section 11340) of Part 1 of Division 3 of Title  
4 2 of the Government Code in order to implement the purposes of  
5 this section.

6 SEC. 10. To the extent that this act has an overall effect of  
7 increasing the costs already borne by a local agency for programs  
8 or levels of service mandated by the 2011 Realignment Legislation  
9 within the meaning of Section 36 of Article XIII of the California  
10 Constitution, it shall apply to local agencies only to the extent that  
11 the state provides annual funding for the cost increase. Any new  
12 program or higher level of service provided by a local agency  
13 pursuant to this act above the level for which funding has been  
14 provided shall not require a subvention of funds by the state nor  
15 otherwise be subject to Section 6 of Article XIII B of the California  
16 Constitution.

O