

AMENDED IN SENATE MARCH 28, 2016

**SENATE BILL**

**No. 1056**

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**Introduced by Senator Liu**

February 16, 2016

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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 amended, 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.~~ *housing and to order supportive services for the family to assist the family in maintaining housing, as specified.* The bill would also require the court to consider a parent's homelessness *or whether he or she is a minor parent* when deciding whether to continue the ~~case.~~ *case or hold certain hearings.* By imposing additional duties on *local entities and social workers,* ~~this~~ *the* 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. *Existing law requires the court to order reasonable services for those parents, as specified, taking into consideration particular barriers to those persons. Existing law requires the social worker to document in the child's case plan those particular barriers.*

This bill would ~~also~~ require the court to consider the special circumstances of homeless parents *or minor parents* when determining whether to extend the time that court-ordered services are provided. *The bill would also require the court to order reasonable services for minor parents, taking into consideration particular barriers to those persons. The bill would require the inclusion of that information in the child's case plan. By imposing additional duties on local entities and social workers, the bill would impose a state-mandated local program.*

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

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

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

30 (B) For a child who, on the date of initial removal from the  
31 physical custody of his or her parent or guardian, was under three  
32 years of age, court-ordered services shall be provided for a period  
33 of six months from the dispositional hearing as provided in  
34 subdivision (e) of Section 366.21, but no longer than 12 months  
35 from the date the child entered foster care as provided in Section

1 361.49 unless the child is returned to the home of the parent or  
2 guardian.

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

13 (2) Any motion to terminate court-ordered reunification services  
14 prior to the hearing set pursuant to subdivision (f) of Section 366.21  
15 for a child described by subparagraph (A) of paragraph (1), or  
16 prior to the hearing set pursuant to subdivision (e) of Section  
17 366.21 for a child described by subparagraph (B) or (C) of  
18 paragraph (1), shall be made pursuant to the requirements set forth  
19 in subdivision (c) of Section 388. A motion to terminate  
20 court-ordered reunification services shall not be required at the  
21 hearing set pursuant to subdivision (e) of Section 366.21 if the  
22 court finds by clear and convincing evidence one of the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

1 and whether failure to order reunification is likely to be detrimental  
2 to the child.

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

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

19 (e) (1) If the *parent is a minor parent or is a* parent or guardian  
20 *who* is incarcerated, institutionalized, or detained by the United  
21 States Department of Homeland Security, or has been deported to  
22 his or her country of origin, the court shall order reasonable  
23 services unless the court determines, by clear and convincing  
24 evidence, those services would be detrimental to the child. In  
25 determining detriment, the court shall consider the age of the child,  
26 the degree of parent-child bonding, the length of the sentence, the  
27 length and nature of the treatment, the nature of the crime or illness,  
28 the degree of detriment to the child if services are not offered and,  
29 for children 10 years of age or older, the child's attitude toward  
30 the implementation of family reunification services, the likelihood  
31 of the parent's discharge from incarceration, institutionalization,  
32 or detention within the reunification time limitations described in  
33 subdivision (a), and any other appropriate factors. In determining  
34 the content of reasonable services, the court shall consider the  
35 particular barriers to *a minor parent or* an incarcerated,  
36 institutionalized, detained, or deported parent's access to those  
37 court-mandated services and ability to maintain contact with his  
38 or her child, and shall document this information in the child's  
39 case plan. Reunification services are subject to the applicable time

1 limitations imposed in subdivision (a). Services may include, but  
2 shall not be limited to, all of the following:

3 (A) Maintaining contact between the parent and child through  
4 collect telephone calls.

5 (B) Transportation services, when appropriate.

6 (C) Visitation services, when appropriate.

7 (D) Reasonable services to extended family members or foster  
8 parents providing care for the child if the services are not  
9 detrimental to the child.

10 An incarcerated or detained parent may be required to attend  
11 counseling, parenting classes, or vocational training programs as  
12 part of the reunification service plan if actual access to these  
13 services is provided. The social worker shall document in the  
14 child's case plan the particular barriers to *a minor parent or* an  
15 incarcerated, institutionalized, or detained parent's access to those  
16 court-mandated services and ability to maintain contact with his  
17 or her child.

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

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

36 (3) Notwithstanding any other ~~provision~~ of law, if the  
37 incarcerated parent is a woman seeking to participate in the  
38 community treatment program operated by the Department of  
39 Corrections and Rehabilitation pursuant to Chapter 4.8  
40 (commencing with Section 1174) of Title 7 of Part 2 of, Chapter

1 4 (commencing with Section 3410) of Title 2 of Part 3 of, the Penal  
2 Code, the court shall determine whether the parent's participation  
3 in a program is in the child's best interest and whether it is suitable  
4 to meet the needs of the parent and child.

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

21 (g) (1) Whenever a court orders that a hearing shall be held  
22 pursuant to Section 366.26, including, when, in consultation with  
23 the child's tribe, tribal customary adoption is recommended, it  
24 shall direct the agency supervising the child and the county  
25 adoption agency, or the State Department of Social Services when  
26 it is acting as an adoption agency, to prepare an assessment that  
27 shall include:

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

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

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

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

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

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

(G) In the case of an Indian child, in addition to subparagraphs (A) to (F), inclusive, an assessment of the likelihood that the child will be adopted, when, in consultation with the child's tribe, a

1 customary adoption, as defined in Section 366.24, is recommended.  
2 If tribal customary adoption is recommended, the assessment shall  
3 include an analysis of both of the following:

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

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

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

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

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

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

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

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

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

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

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

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

15 (j) When the court determines that reunification services will  
16 not be ordered, it shall order that the child's caregiver receive the  
17 child's birth certificate in accordance with Sections 16010.4 and  
18 16010.5. Additionally, when the court determines that reunification  
19 services will not be ordered, it shall order, when appropriate, that  
20 a child who is 16 years of age or older receive his or her birth  
21 certificate.

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

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

30 366.1. Each supplemental report required to be filed pursuant  
31 to Section 366 shall include, but not be limited to, a factual  
32 discussion of each of the following subjects:

33 (a) Whether the county welfare department social worker has  
34 considered any of the following:

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

39 (2) Whether the child can be returned to the custody of his or  
40 her parent who is enrolled in a certified substance abuse treatment



1 facility that allows a dependent child to reside with his or her  
2 parent.

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

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

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

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

16 (e) If the parent or guardian is unwilling or unable to participate  
17 in making an educational decision for his or her child, or if other  
18 circumstances exist that compromise the ability of the parent or  
19 guardian to make educational decisions for the child, the county  
20 welfare department or social worker shall consider whether the  
21 right of the parent or guardian to make educational decisions for  
22 the child should be limited. If the supplemental report makes that  
23 recommendation, the report shall identify whether there is a  
24 responsible adult available to make educational decisions for the  
25 child pursuant to Section 361.

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

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

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

32 (C) If the siblings are not placed together in the same home,  
33 why the siblings are not placed together and what efforts are being  
34 made to place the siblings together, or why those efforts are not  
35 appropriate.

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

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

38 (ii) If there are visits between the siblings, whether the visits  
39 are supervised or unsupervised. If the visits are supervised, a

1 discussion of the reasons why the visits are supervised, and what  
2 needs to be accomplished in order for the visits to be unsupervised.

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

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

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

8 (2) The factual discussion shall include a discussion of indicators  
9 of the nature of the child's sibling relationships, including, but not  
10 limited to, whether the siblings were raised together in the same  
11 home, whether the siblings have shared significant common  
12 experiences or have existing close and strong bonds, whether either  
13 sibling expresses a desire to visit or live with his or her sibling, as  
14 applicable, and whether ongoing contact is in the child's best  
15 emotional interests.

16 (g) Whether a child who is 10 years of age or older and who  
17 has been in an out-of-home placement for six months or longer  
18 has relationships with individuals other than the child's siblings  
19 that are important to the child, consistent with the child's best  
20 interests, and actions taken to maintain those relationships. The  
21 social worker shall ask every child who is 10 years of age or older  
22 and who has been in an out-of-home placement for six months or  
23 longer to identify any individuals other than the child's siblings  
24 who are important to the child, consistent with the child's best  
25 interest. The social worker may ask any other child to provide that  
26 information, as appropriate.

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

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

33 366.21. (a) Every hearing conducted by the juvenile court  
34 reviewing the status of a dependent child shall be placed on the  
35 appearance calendar. The court shall advise all persons present at  
36 the hearing of the date of the future hearing and of their right to  
37 be present and represented by counsel.

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

(c) At least 10 calendar days prior to the hearing, the social worker shall file a supplemental report with the court regarding the services provided or offered to the parent or legal guardian to enable him or her to assume custody and the efforts made to achieve legal permanence for the child if efforts to reunify fail, including, but not limited to, efforts to maintain relationships between a child who is 10 years of age or older and has been in out-of-home placement for six months or longer and individuals who are important to the child, consistent with the child's best interests; the progress made; and, when relevant, the prognosis for return of the child to the physical custody of his or her parent or legal guardian; and shall make his or her recommendation for disposition. If the child is a member of a sibling group described in subparagraph (C) of paragraph (1) of subdivision (a) of Section 361.5, the report and recommendation may also take into account those factors described in subdivision (e) relating to the child's sibling group. If the recommendation is not to return the child to a parent or legal guardian, the report shall specify why the return of the child would be detrimental to the child. The social worker shall provide the parent or legal guardian, counsel for the child, and any court-appointed child advocate with a copy of the report, including his or her recommendation for disposition, at least 10 calendar days prior to the hearing. In the case of a child removed from the physical custody of his or her parent or legal guardian, the social worker shall, at least 10 calendar days prior to the hearing, provide a summary of his or her recommendation for disposition to any foster parents, relative caregivers, and certified foster parents who have been approved for adoption by the State Department of Social Services when it is acting as an adoption agency or by a county adoption agency, community care facility, or foster family agency having the physical custody of the child. The social worker shall include a copy of the Judicial Council Caregiver Information Form (JV-290) with the summary of recommendations to the child's foster parents, relative caregivers, or foster parents approved for adoption, in the caregiver's primary language when available, along with information on how to file the form with the court.

(d) Prior to any hearing involving a child in the physical custody of a community care facility or a foster family agency that may result in the return of the child to the physical custody of his or

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

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

1 treatment facility shall not be, for that reason alone, prima facie  
2 evidence of detriment. The failure of the parent or legal guardian  
3 to participate regularly and make substantive progress in  
4 court-ordered treatment programs shall be prima facie evidence  
5 that return would be detrimental. In making its determination, the  
6 court shall review and consider the social worker's report and  
7 recommendations and the report and recommendations of any child  
8 advocate appointed pursuant to Section 356.5; and shall consider  
9 the efforts or progress, or both, demonstrated by the parent or legal  
10 guardian and the extent to which he or she availed himself or  
11 herself of services provided, taking into account the particular  
12 barriers to a minor parent or a nonminor dependent parent, or an  
13 incarcerated, institutionalized, detained, homeless, or deported  
14 parent's or legal guardian's access to those court-mandated services  
15 and ability to maintain contact with his or her child. The court  
16 shall also consider whether the parent is in substantial compliance  
17 with the court-ordered case plan, whether lack of housing is the  
18 sole impediment to family reunification, and whether the child can  
19 be returned to the parent upon the parent securing appropriate  
20 housing. In making its determination, the court shall review and  
21 consider the services provided by the county, and the efforts,  
22 progress, or both demonstrated by the parent, and the extent to  
23 which he or she availed himself or herself of services provided,  
24 taking into account the particular barriers to a homeless parent's  
25 access to those services and ability to maintain contact with his or  
26 her child. If the parent is in substantial compliance with the  
27 court-ordered case plan and lack of housing is the sole impediment  
28 to family reunification, the court may order that the child be  
29 returned to the parent's physical custody within five days after the  
30 parent has secured appropriate ~~housing.~~ *housing and order*  
31 *supportive services for the family to assist the family in maintaining*  
32 *housing. Appropriate housing may include, but is not limited to,*  
33 *housing provided through rapid rehousing, transitional, or*  
34 *permanent housing programs, and funded by federal, state, or*  
35 *county sources, or through various nonprofit organizations.*

36 (2) Regardless of whether the child is returned to a parent or  
37 legal guardian, the court shall specify the factual basis for its  
38 conclusion that the return would be detrimental or would not be  
39 detrimental. The court also shall make appropriate findings  
40 pursuant to subdivision (a) of Section 366; and, ~~where~~ *when*

1 relevant, shall order any additional services reasonably believed  
2 to facilitate the return of the child to the custody of his or her parent  
3 or legal guardian. The court shall also inform the parent or legal  
4 guardian that if the child cannot be returned home by the 12-month  
5 permanency hearing, a proceeding pursuant to Section 366.26 may  
6 be instituted. This section does not apply in a case where, pursuant  
7 to Section 361.5, the court has ordered that reunification services  
8 shall not be provided.

9 (3) If the child was under three years of age on the date of the  
10 initial removal, or is a member of a sibling group described in  
11 subparagraph (C) of paragraph (1) of subdivision (a) of Section  
12 361.5, and the court finds by clear and convincing evidence that  
13 the parent failed to participate regularly and make substantive  
14 progress in a court-ordered treatment plan, the court may schedule  
15 a hearing pursuant to Section 366.26 within 120 days. If, however,  
16 the court finds there is a substantial probability that the child, who  
17 was under three years of age on the date of initial removal or is a  
18 member of a sibling group described in subparagraph (C) of  
19 paragraph (1) of subdivision (a) of Section 361.5, may be returned  
20 to his or her parent or legal guardian within six months or that  
21 reasonable services have not been provided, the court shall continue  
22 the case to the 12-month permanency hearing.

23 (4) For the purpose of placing and maintaining a sibling group  
24 together in a permanent home, the court, in making its  
25 determination to schedule a hearing pursuant to Section 366.26  
26 for some or all members of a sibling group, as described in  
27 subparagraph (C) of paragraph (1) of subdivision (a) of Section  
28 361.5, shall review and consider the social worker's report and  
29 recommendations. Factors the report shall address, and the court  
30 shall consider, may include, but need not be limited to, whether  
31 the sibling group was removed from parental care as a group, the  
32 closeness and strength of the sibling bond, the ages of the siblings,  
33 the appropriateness of maintaining the sibling group together, the  
34 detriment to the child if sibling ties are not maintained, the  
35 likelihood of finding a permanent home for the sibling group,  
36 whether the sibling group is currently placed together in a  
37 preadoptive home or has a concurrent plan goal of legal  
38 permanency in the same home, the wishes of each child whose  
39 age and physical and emotional condition permits a meaningful  
40 response, and the best interests of each child in the sibling group.

1 The court shall specify the factual basis for its finding that it is in  
2 the best interests of each child to schedule a hearing pursuant to  
3 Section 366.26 within 120 days for some or all of the members of  
4 the sibling group.

5 (5) If the child was removed initially under subdivision (g) of  
6 Section 300 and the court finds by clear and convincing evidence  
7 that the whereabouts of the parent are still unknown, or the parent  
8 has failed to contact and visit the child, the court may schedule a  
9 hearing pursuant to Section 366.26 within 120 days. The court  
10 shall take into account any particular barriers to a parent's ability  
11 to maintain contact with his or her child due to the parent's  
12 incarceration, institutionalization, *status as a minor*, homelessness,  
13 detention by the United States Department of Homeland Security,  
14 or deportation. If the court finds by clear and convincing evidence  
15 that the parent has been convicted of a felony indicating parental  
16 unfitness, the court may schedule a hearing pursuant to Section  
17 366.26 within 120 days.

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

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

29 (8) If the child is not returned to his or her parent or legal  
30 guardian, the court shall determine whether reasonable services  
31 that were designed to aid the parent or legal guardian in  
32 overcoming the problems that led to the initial removal and the  
33 continued custody of the child have been provided or offered to  
34 the parent or legal guardian. The court shall order that those  
35 services be initiated, continued, or terminated.

36 (f) (1) The permanency hearing shall be held no later than 12  
37 months after the date the child entered foster care, as that date is  
38 determined pursuant to Section 361.49. At the permanency hearing,  
39 the court shall determine the permanent plan for the child, which  
40 shall include a determination of whether the child will be returned

1 to the child's home and, if so, when, within the time limits of  
2 subdivision (a) of Section 361.5. After considering the relevant  
3 and admissible evidence, the court shall order the return of the  
4 child to the physical custody of his or her parent or legal guardian  
5 unless the court finds, by a preponderance of the evidence, that  
6 the return of the child to his or her parent or legal guardian would  
7 create a substantial risk of detriment to the safety, protection, or  
8 physical or emotional well-being of the child. The social worker  
9 shall have the burden of establishing that detriment.

10 (A) At the permanency hearing, the court shall consider the  
11 criminal history, obtained pursuant to paragraph (1) of subdivision  
12 (f) of Section 16504.5, of the parent or legal guardian subsequent  
13 to the child's removal to the extent that the criminal record is  
14 substantially related to the welfare of the child or the parent's or  
15 legal guardian's ability to exercise custody and control regarding  
16 his or her child, provided that the parent or legal guardian agreed  
17 to submit fingerprint images to obtain criminal history information  
18 as part of the case plan. The court shall also determine whether  
19 reasonable services that were designed to aid the parent or legal  
20 guardian to overcome the problems that led to the initial removal  
21 and continued custody of the child have been provided or offered  
22 to the parent or legal guardian.

23 (B) The court shall also consider whether the child can be  
24 returned to the custody of his or her parent who is enrolled in a  
25 certified substance abuse treatment facility that allows a dependent  
26 child to reside with his or her parent. The fact that the parent is  
27 enrolled in a certified substance abuse treatment facility shall not  
28 be, for that reason alone, prima facie evidence of detriment. The  
29 failure of the parent or legal guardian to participate regularly and  
30 make substantive progress in court-ordered treatment programs  
31 shall be prima facie evidence that return would be detrimental.

32 (C) In making its determination, the court shall review and  
33 consider the social worker's report and recommendations and the  
34 report and recommendations of any child advocate appointed  
35 pursuant to Section 356.5, shall consider the efforts or progress,  
36 or both, demonstrated by the parent or legal guardian and the extent  
37 to which he or she availed himself or herself of services provided,  
38 taking into account the particular barriers to a minor parent or a  
39 nonminor dependent parent, or an incarcerated, institutionalized,  
40 detained, homeless, or deported parent's or legal guardian's access



1 to those court-mandated services and ability to maintain contact  
2 with his or her child, and shall make appropriate findings pursuant  
3 to subdivision (a) of Section 366.

4 (D) The court shall also consider whether the parent is in  
5 substantial compliance with the court-ordered case plan, whether  
6 lack of housing is the sole impediment to family reunification, and  
7 whether the child can be returned to the parent upon the parent  
8 securing appropriate housing. In making its determination, the  
9 court shall review and consider the services provided by the county,  
10 and the efforts, progress, or both demonstrated by the parent, and  
11 the extent to which he or she availed himself or herself of services  
12 provided, taking into account the particular barriers to a homeless  
13 parent's access to those services and ability to maintain contact  
14 with his or her child. If the parent is in substantial compliance with  
15 the court-ordered case plan and lack of housing is the sole  
16 impediment to family reunification, the court may order that the  
17 child be returned to the parent's physical custody within five days  
18 after the parent has secured appropriate housing. *housing and order  
19 supportive services for the family to assist the family in maintaining  
20 housing. Appropriate housing may include, but is not limited to,  
21 housing provided through rapid rehousing, transitional, or  
22 permanent housing programs, and funded by federal, state, or  
23 county sources, or through various nonprofit organizations.*

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

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

39 (g) If the time period in which the court-ordered services were  
40 provided has met or exceeded the time period set forth in

1 subparagraph (A), (B), or (C) of paragraph (1) of subdivision (a)  
2 of Section 361.5, as appropriate, and a child is not returned to the  
3 custody of a parent or legal guardian at the permanency hearing  
4 held pursuant to subdivision (f), the court shall do one of the  
5 following:

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

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

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

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

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

35 (ii) The court shall inform the parent or legal guardian that if  
36 the child cannot be returned home by the next permanency review  
37 hearing, a proceeding pursuant to Section 366.26 may be instituted.  
38 The court shall not order that a hearing pursuant to Section 366.26  
39 be held unless there is clear and convincing evidence that

1 reasonable services have been provided or offered to the parent or  
2 legal guardian.

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

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

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

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

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

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

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

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

24 (A) The court shall make factual findings identifying any  
25 barriers to achieving the permanent plan as of the hearing date.  
26 When the child is under 16 years of age, the court shall order a  
27 permanent plan of return home, adoption, tribal customary adoption  
28 in the case of an Indian child, legal guardianship, or placement  
29 with a fit and willing relative, as appropriate. When the child is  
30 16 years of age or older, or is a nonminor dependent, and no other  
31 permanent plan is appropriate at the time of the hearing, the court  
32 may order another planned permanent living arrangement, as  
33 described in paragraph (2) of subdivision (i) of Section 16501.

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

1 (C) If the child is not returned to his or her parent or legal  
2 guardian, the court shall consider, and state for the record, in-state  
3 and out-of-state options for permanent placement. If the child is  
4 placed out of the state, the court shall make a determination  
5 whether the out-of-state placement continues to be appropriate and  
6 in the best interests of the child.

7 (h) In any case in which the court orders that a hearing pursuant  
8 to Section 366.26 shall be held, it shall also order the termination  
9 of reunification services to the parent or legal guardian. The court  
10 shall continue to permit the parent or legal guardian to visit the  
11 child pending the hearing unless it finds that visitation would be  
12 detrimental to the child. The court shall make any other appropriate  
13 orders to enable the child to maintain relationships with individuals,  
14 other than the child's siblings, who are important to the child,  
15 consistent with the child's best interests. When the court orders a  
16 termination of reunification services to the parent or legal guardian,  
17 it shall also order that the child's caregiver receive the child's birth  
18 certificate in accordance with Sections 16010.4 and 16010.5.  
19 Additionally, when the court orders a termination of reunification  
20 services to the parent or legal guardian, it shall order, when  
21 appropriate, that a child who is 16 years of age or older receive  
22 his or her birth certificate.

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

30 (A) Current search efforts for an absent parent or parents or  
31 legal guardians.

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

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

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

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

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

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

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

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

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

4 (2) (A) A relative caregiver's preference for legal guardianship  
5 over adoption, if it is due to circumstances that do not include an  
6 unwillingness to accept legal or financial responsibility for the  
7 child, shall not constitute the sole basis for recommending removal  
8 of the child from the relative caregiver for purposes of adoptive  
9 placement.

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

23 (j) If, at any hearing held pursuant to Section 366.26, a  
24 guardianship is established for the minor with an approved relative  
25 caregiver, and juvenile court dependency is subsequently  
26 dismissed, the minor shall be eligible for aid under the Kin-GAP  
27 Program, as provided for in Article 4.5 (commencing with Section  
28 11360) or Article 4.7 (commencing with Section 11385), as  
29 applicable, of Chapter 2 of Part 3 of Division 9.

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

1 section has the same meaning as “relative” as defined in  
2 subdivision (c) of Section 11391.

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

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

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

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

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

15 366.215. With respect to a hearing held pursuant to subdivision  
16 (e) of Section 366.21, if the child in question was under three years  
17 of age on the date of the initial removal, or is a member of a sibling  
18 group described in subparagraph (C) of paragraph (1) of  
19 subdivision (a) of Section 361.5, the court, in determining whether  
20 to schedule a hearing pursuant to Section 366.26, shall take into  
21 account any particular barriers to a parent’s ability to maintain  
22 contact with his or her child due to the parent’s incarceration,  
23 institutionalization, *status as a minor*, homelessness, detention by  
24 the United States Department of Homeland Security, or deportation.

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

27 366.22. (a) (1) When a case has been continued pursuant to  
28 paragraph (1) or (2) of subdivision (g) of Section 366.21, the  
29 permanency review hearing shall occur within 18 months after the  
30 date the child was originally removed from the physical custody  
31 of his or her parent or legal guardian. After considering the  
32 admissible and relevant evidence, the court shall order the return  
33 of the child to the physical custody of his or her parent or legal  
34 guardian unless the court finds, by a preponderance of the evidence,  
35 that the return of the child to his or her parent or legal guardian  
36 would create a substantial risk of detriment to the safety, protection,  
37 or physical or emotional well-being of the child. The social worker  
38 shall have the burden of establishing that detriment. At the  
39 permanency review hearing, the court shall consider the criminal  
40 history, obtained pursuant to paragraph (1) of subdivision (f) of



1 Section 16504.5, of the parent or legal guardian subsequent to the  
2 child's removal, to the extent that the criminal record is  
3 substantially related to the welfare of the child or the parent's or  
4 legal guardian's ability to exercise custody and control regarding  
5 his or her child, provided that the parent or legal guardian agreed  
6 to submit fingerprint images to obtain criminal history information  
7 as part of the case plan. The court shall also consider whether the  
8 child can be returned to the custody of his or her parent who is  
9 enrolled in a certified substance abuse treatment facility that allows  
10 a dependent child to reside with his or her parent. The fact that the  
11 parent is enrolled in a certified substance abuse treatment facility  
12 shall not be, for that reason alone, prima facie evidence of  
13 detriment. The failure of the parent or legal guardian to participate  
14 regularly and make substantive progress in court-ordered treatment  
15 programs shall be prima facie evidence that return would be  
16 detrimental. In making its determination, the court shall review  
17 and consider the social worker's report and recommendations and  
18 the report and recommendations of any child advocate appointed  
19 pursuant to Section 356.5; shall consider the efforts or progress,  
20 or both, demonstrated by the parent or legal guardian and the extent  
21 to which he or she availed himself or herself of services provided,  
22 taking into account the particular barriers of a minor parent or a  
23 nonminor dependent parent, or an incarcerated, institutionalized,  
24 or homeless parent's or legal guardian's access to those  
25 court-mandated services and ability to maintain contact with his  
26 or her child; and shall make appropriate findings pursuant to  
27 subdivision (a) of Section 366. The court shall also consider  
28 whether the parent is in substantial compliance with the  
29 court-ordered case plan, whether lack of housing is the sole  
30 impediment to family reunification, and whether the child can be  
31 returned to the parent upon the parent securing appropriate housing.  
32 In making its determination, the court shall review and consider  
33 the services provided by the county, and the efforts, progress, or  
34 both demonstrated by the parent, and the extent to which he or she  
35 availed himself or herself of services provided, taking into account  
36 the particular barriers to a homeless parent's access to those  
37 services and ability to maintain contact with his or her child. If the  
38 parent is in substantial compliance with the court-ordered case  
39 plan and lack of housing is the sole impediment to family  
40 reunification, the court may order that the child be returned to the

1 parent's physical custody within five days after the parent has  
2 secured appropriate ~~housing~~ *housing and order supportive services*  
3 *for the family to assist the family in maintaining housing.*  
4 *Appropriate housing may include, but is not limited to, housing*  
5 *provided through rapid rehousing, transitional, or permanent*  
6 *housing programs, and funded by federal, state, or county sources,*  
7 *or through various nonprofit organizations.*

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

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

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

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

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

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

36 (b) If the child is not returned to a parent or legal guardian at  
37 the permanency review hearing and the court determines by clear  
38 and convincing evidence that the best interests of the child would  
39 be met by the provision of additional reunification services to a  
40 parent or legal guardian who is making significant and consistent

1 progress in a court-ordered residential substance abuse treatment  
2 program, a parent who was either a minor parent or a nonminor  
3 dependent parent at the time of the initial hearing making  
4 significant and consistent progress in establishing a safe home for  
5 the child's return, or a parent recently discharged from  
6 incarceration, institutionalization, or the custody of the United  
7 States Department of Homeland Security or a parent who is  
8 homeless and making significant and consistent progress in  
9 establishing a safe home for the child's return, the court may  
10 continue the case for up to six months for a subsequent permanency  
11 review hearing, provided that the hearing shall occur within 24  
12 months of the date the child was originally taken from the physical  
13 custody of his or her parent or legal guardian. The court shall  
14 continue the case only if it finds that there is a substantial  
15 probability that the child will be returned to the physical custody  
16 of his or her parent or legal guardian and safely maintained in the  
17 home within the extended period of time or that reasonable services  
18 have not been provided to the parent or legal guardian. For the  
19 purposes of this section, in order to find a substantial probability  
20 that the child will be returned to the physical custody of his or her  
21 parent or legal guardian and safely maintained in the home within  
22 the extended period of time, the court shall be required to find all  
23 of the following:

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

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

29 (3) The parent or legal guardian has demonstrated the capacity  
30 and ability both to complete the objectives of his or her substance  
31 abuse treatment plan as evidenced by reports from a substance  
32 abuse provider as applicable, or complete a treatment plan  
33 postdischarge from incarceration, institutionalization, or detention,  
34 or following deportation to his or her country of origin and his or  
35 her return to the United States, or to locate housing, and to provide  
36 for the child's safety, protection, physical and emotional  
37 well-being, and special needs.

38 For purposes of this subdivision, the court's decision to continue  
39 the case based on a finding or substantial probability that the child  
40 will be returned to the physical custody of his or her parent or legal

1 guardian is a compelling reason for determining that a hearing  
2 held pursuant to Section 366.26 is not in the best interests of the  
3 child.

4 The court shall inform the parent or legal guardian that if the  
5 child cannot be returned home by the subsequent permanency  
6 review hearing, a proceeding pursuant to Section 366.26 may be  
7 instituted. The court shall not order that a hearing pursuant to  
8 Section 366.26 be held unless there is clear and convincing  
9 evidence that reasonable services have been provided or offered  
10 to the parent or legal guardian.

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

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

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

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

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

37 (E) The relationship of the child to any identified prospective  
38 adoptive parent or legal guardian, the duration and character of  
39 the relationship, the degree of attachment of the child to the  
40 prospective relative guardian or adoptive parent, the relative’s or

1 adoptive parent's strong commitment to caring permanently for  
2 the child, the motivation for seeking adoption or legal guardianship,  
3 a statement from the child concerning placement and the adoption  
4 or legal guardianship, and whether the child, if over 12 years of  
5 age, has been consulted about the proposed relative guardianship  
6 arrangements, unless the child's age or physical, emotional, or  
7 other condition precludes his or her meaningful response, and if  
8 so, a description of the condition.

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

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

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

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

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

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

1 the hearing held pursuant to Section 366.26. A copy of the executed  
2 negotiated agreement shall be attached to the assessment.

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

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

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

25 366.25. (a) (1) When a case has been continued pursuant to  
26 subdivision (b) of Section 366.22, the subsequent permanency  
27 review hearing shall occur within 24 months after the date the  
28 child was originally removed from the physical custody of his or  
29 her parent or legal guardian. After considering the relevant and  
30 admissible evidence, the court shall order the return of the child  
31 to the physical custody of his or her parent or legal guardian unless  
32 the court finds, by a preponderance of the evidence, that the return  
33 of the child to his or her parent or legal guardian would create a  
34 substantial risk of detriment to the safety, protection, or physical  
35 or emotional well-being of the child. The social worker shall have  
36 the burden of establishing that detriment. At the subsequent  
37 permanency review hearing, the court shall consider the criminal  
38 history, obtained pursuant to paragraph (1) of subdivision (f) of  
39 Section 16504.5, of the parent or legal guardian subsequent to the  
40 child’s removal to the extent that the criminal record is substantially

1 related to the welfare of the child or parent's or legal guardian's  
2 ability to exercise custody and control regarding his or her child  
3 provided that the parent or legal guardian agreed to submit  
4 fingerprint images to obtain criminal history information as part  
5 of the case plan. The court shall also consider whether the child  
6 can be returned to the custody of a parent who is enrolled in a  
7 certified substance abuse treatment facility that allows a dependent  
8 child to reside with his or her parent. The fact that the parent is  
9 enrolled in a certified substance abuse treatment facility shall not  
10 be, for that reason alone, prima facie evidence of detriment. The  
11 failure of the parent or legal guardian to participate regularly and  
12 make substantive progress in court-ordered treatment programs  
13 shall be prima facie evidence that return would be detrimental. In  
14 making its determination, the court shall review and consider the  
15 social worker's report and recommendations and the report and  
16 recommendations of any child advocate appointed pursuant to  
17 Section 356.5; shall consider the efforts or progress, or both,  
18 demonstrated by the parent or legal guardian and the extent to  
19 which he or she availed himself or herself of services provided;  
20 and shall make appropriate findings pursuant to subdivision (a) of  
21 Section 366. The court shall also consider whether the parent is in  
22 substantial compliance with the court-ordered case plan, whether  
23 lack of housing is the sole impediment to family reunification, and  
24 whether the child can be returned to the parent upon the parent  
25 securing appropriate housing. In making its determination, the  
26 court shall review and consider the services provided by the county,  
27 and the efforts, progress, or both demonstrated by the parent, and  
28 the extent to which he or she availed himself or herself of services  
29 provided, taking into account the particular barriers to a homeless  
30 parent's access to those services and ability to maintain contact  
31 with his or her child. If the parent is in substantial compliance with  
32 the court-ordered case plan and lack of housing is the sole  
33 impediment to family reunification, the court may order that the  
34 child be returned to the parent's physical custody within five days  
35 after the parent has secured appropriate housing. *housing and order*  
36 *supportive services for the family to assist the family in maintaining*  
37 *housing. Appropriate housing may include, but is not limited to,*  
38 *housing provided through rapid rehousing, transitional, or*  
39 *permanent housing programs, and funded by federal, state, or*  
40 *county sources, or through various nonprofit organizations.*



1 (2) Whether or not the child is returned to his or her parent or  
2 legal guardian, the court shall specify the factual basis for its  
3 decision. If the child is not returned to a parent or legal guardian,  
4 the court shall specify the factual basis for its conclusion that return  
5 would be detrimental. If the child is not returned to his or her parent  
6 or legal guardian, the court shall consider and state for the record,  
7 in-state and out-of-state options for the child's permanent  
8 placement. If the child is placed out of the state, the court shall  
9 make a determination whether the out-of-state placement continues  
10 to be appropriate and in the best interests of the child.

11 (3) If the child is not returned to a parent or legal guardian at  
12 the subsequent permanency review hearing, the court shall order  
13 that a hearing be held pursuant to Section 366.26 in order to  
14 determine whether adoption, or, in the case of an Indian child,  
15 tribal customary adoption, guardianship, or, in the case of a child  
16 16 years of age or older when no other permanent plan is  
17 appropriate, another planned permanent living arrangement is the  
18 most appropriate plan for the child. On and after January 1, 2012,  
19 a hearing pursuant to Section 366.26 shall not be ordered if the  
20 child is a nonminor dependent, unless the nonminor dependent is  
21 an Indian child and tribal customary adoption is recommended as  
22 the permanent plan. However, if the court finds by clear and  
23 convincing evidence, based on the evidence already presented to  
24 it, including a recommendation by the State Department of Social  
25 Services when it is acting as an adoption agency or by a county  
26 adoption agency, that there is a compelling reason, as described  
27 in paragraph (5) of subdivision (g) of Section 366.21, for  
28 determining that a hearing held under Section 366.26 is not in the  
29 best interest of the child because the child is not a proper subject  
30 for adoption or, in the case of an Indian child, tribal customary  
31 adoption, and has no one willing to accept legal guardianship as  
32 of the hearing date, then the court may, only under these  
33 circumstances, order that the child remain in foster care with a  
34 permanent plan of return home, adoption, tribal customary adoption  
35 in the case of an Indian child, legal guardianship, or placement  
36 with a fit and willing relative, as appropriate. If the child is 16  
37 years of age or older or is a nonminor dependent, and no other  
38 permanent plan is appropriate at the time of the hearing, the court  
39 may order another planned permanent living arrangement, as  
40 described in paragraph (2) of subdivision (i) of Section 16501.

1 The court shall make factual findings identifying any barriers to  
2 achieving the permanent plan as of the hearing date. On and after  
3 January 1, 2012, the nonminor dependent's legal status as an adult  
4 is in and of itself a compelling reason not to hold a hearing pursuant  
5 to Section 366.26. The court may order that a nonminor dependent  
6 who otherwise is eligible pursuant to Section 11403 remain in a  
7 planned, permanent living arrangement. If the court orders that a  
8 child who is 10 years of age or older remain in foster care, the  
9 court shall determine whether the agency has made reasonable  
10 efforts to maintain the child's relationships with individuals other  
11 than the child's siblings who are important to the child, consistent  
12 with the child's best interests, and may make any appropriate order  
13 to ensure that those relationships are maintained. The hearing shall  
14 be held no later than 120 days from the date of the subsequent  
15 permanency review hearing. The court shall also order termination  
16 of reunification services to the parent or legal guardian. The court  
17 shall continue to permit the parent or legal guardian to visit the  
18 child unless it finds that visitation would be detrimental to the  
19 child. The court shall determine whether reasonable services have  
20 been offered or provided to the parent or legal guardian. For  
21 purposes of this paragraph, evidence of any of the following  
22 circumstances shall not, in and of themselves, be deemed a failure  
23 to provide or offer reasonable services:

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

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

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

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

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

37 (B) A review of the amount of, and nature of, any contact  
38 between the child and his or her parents and other members of his  
39 or her extended family since the time of placement. Although the  
40 extended family of each child shall be reviewed on a case-by-case

1 basis, “extended family” for the purposes of this paragraph shall  
2 include, but not be limited to, the child’s siblings, grandparents,  
3 aunts, and uncles.

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

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

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

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

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

38 (i) Whether tribal customary adoption would or would not be  
39 detrimental to the Indian child and the reasons for reaching that  
40 conclusion.

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

4 (2) (A) A relative caregiver's preference for legal guardianship  
5 over adoption, if it is due to circumstances that do not include an  
6 unwillingness to accept legal or financial responsibility for the  
7 child, shall not constitute the sole basis for recommending removal  
8 of the child from the relative caregiver for purposes of adoptive  
9 placement.

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

23 (c) If, at any hearing held pursuant to Section 366.26, a  
24 guardianship is established for the minor with an approved relative  
25 caregiver, and juvenile court dependency is subsequently  
26 dismissed, the minor shall be eligible for aid under the Kin-GAP  
27 Program, as provided for in Article 4.5 (commencing with Section  
28 11360) or Article 4.7 (commencing with Section 11385), as  
29 applicable, of Chapter 2 of Part 3 of Division 9.

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

1 has the same meaning as “relative” as defined in subdivision (c)  
2 of Section 11391.

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

5 16500.1. (a) It is the intent of the Legislature to use the  
6 strengths of families and communities to serve the needs of children  
7 who are alleged to be abused or neglected, as described in Section  
8 300, to reduce the necessity for removing these children from their  
9 home, to encourage speedy reunification of families when it can  
10 be safely accomplished, to reduce the length of stay in out-of-home  
11 care and hasten reunification when it can be safely accomplished  
12 and lack of housing is the only impediment to reunification, to  
13 locate permanent homes and families for children who cannot  
14 return to their biological families, to reduce the number of  
15 placements experienced by these children, to ensure that children  
16 leaving the foster care system have support within their  
17 communities, to improve the quality and homelike nature of  
18 out-of-home care, and to foster the educational progress of children  
19 in out-of-home care.

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

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

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

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

29 (4) Use team decisionmaking in case planning.

30 (5) Provide support to foster children and foster families.

31 (6) Ensure that licensing requirements do not create barriers to  
32 recruitment of qualified, high-quality foster homes.

33 (7) Provide training for foster parents and professional staff on  
34 working effectively with families and communities.

35 (8) Encourage foster parents to serve as mentors and role models  
36 for biological parents.

37 (9) Use community resources, including community-based  
38 agencies and volunteer organizations, to assist in developing  
39 placements for children and to provide support for children and  
40 their families.

1 (10) Ensure an appropriate array of placement resources for  
2 children in need of out-of-home care.

3 (11) Ensure that no child leaves foster care without a lifelong  
4 connection to a committed adult.

5 (12) Ensure that children are actively involved in the case plan  
6 and permanency planning process.

7 (13) Provide housing and supportive services to parents who  
8 are in substantial compliance with their case plan and lack of  
9 housing is the only impediment to family reunification.

10 (c) (1) Each county shall provide the department with a disaster  
11 response plan describing how county programs assisted under Part  
12 B (commencing with Section 620) and Part E (commencing with  
13 Section 670) of Subchapter IV of Chapter 7 of Title 42 of the  
14 United States Code (Titles IV-B and IV-E of the Social Security  
15 Act) would respond to a disaster. The plan shall set forth  
16 procedures describing how each county will perform the following  
17 services:

18 (A) Identify, locate, and continue availability of services for  
19 children under state care or supervision who are displaced or  
20 adversely affected by a disaster.

21 (B) Respond, as appropriate, to new child welfare cases in areas  
22 adversely affected by a disaster, and provide services in those  
23 cases.

24 (C) Remain in communication with caseworkers and other  
25 essential child welfare personnel who are displaced because of a  
26 disaster.

27 (D) Preserve essential program records.

28 (E) Coordinate services and share information with other  
29 counties.

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

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

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

39 (1) Consider the existing array of program models provided in  
40 statute and in practice, including, but not limited to, wraparound

1 services, as defined in Section 18251, children's systems of care,  
2 as provided for in Section 5852, the Oregon Family Unity or Santa  
3 Clara County Family Conference models, which include family  
4 conferences at key points in the casework process, such as when  
5 out-of-home placement or return home is considered, and the Annie  
6 E. Casey Foundation Family to Family initiative, which uses team  
7 decisionmaking in case planning, community-based placement  
8 practices requiring that children be placed in foster care in the  
9 communities where they resided prior to placement, and involve  
10 foster families as team members in family reunification efforts.

11 (2) Ensure that emergency response services, family  
12 maintenance services, family reunification services, and permanent  
13 placement services are coordinated with the implementation of the  
14 models described in paragraph (1).

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

17 (e) The department, in conjunction with stakeholders, including,  
18 but not limited to, county child welfare services agencies, foster  
19 parent and group home associations, the California Youth  
20 Connection, and other child advocacy groups, shall review the  
21 existing child welfare services program regulations to ensure that  
22 these regulations are consistent with the legislative intent specified  
23 in subdivision (a). This review shall also determine how to  
24 incorporate the best practice guidelines for assessment of children  
25 and families receiving child welfare and foster care services, as  
26 required by Section 16501.2.

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

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

31 16500.5. (a) (1) The Legislature hereby declares its intent to  
32 encourage the continuity of the family unit by:

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

34 (ii) For purposes of this subdivision, "family preservation  
35 services" means intensive services for families whose children,  
36 without these services, would be subject to any of the following:

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

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

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

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

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

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

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

17 (b) It is the intent of the Legislature that family preservation  
18 and support services in California conform to the federal definitions  
19 contained in Section 431 of the Social Security Act as contained  
20 in Public Law 103-66, the Omnibus Budget Reconciliation Act of  
21 1987. The Legislature finds and declares that California's existing  
22 family preservation programs meet the intent of the federal  
23 Promoting Safe and Stable Families program.

24 (c) (1) Services that may be provided under this program may  
25 include, but are not limited to, counseling, mental health treatment  
26 and substance abuse treatment services, including treatment at a  
27 residential substance abuse treatment facility that accepts families,  
28 parenting, respite, day treatment, transportation, homemaking,  
29 family support services, and housing and supportive services for  
30 homeless parents of dependent children removed from the physical  
31 custody of their parents or guardians if the parent or guardian is  
32 in substantial compliance with their case plan and lack of housing  
33 is the sole impediment to reunification. Each county that chooses  
34 to provide mental health treatment and substance abuse treatment  
35 shall identify and develop these services in consultation with  
36 county mental health treatment and substance abuse treatment  
37 agencies. Additional services may include those enumerated in  
38 Sections 16506 and 16507. The services to be provided pursuant  
39 to this section may be determined by each participating county.  
40 Each county may contract with individuals and organizations for



1 services to be provided pursuant to this section. Each county shall  
2 utilize available private nonprofit resources in the county prior to  
3 developing new county-operated resources when these private  
4 nonprofit resources are of at least equal quality and costs as  
5 county-operated resources and shall utilize available county  
6 resources of at least equal quality and cost prior to new private  
7 nonprofit resources.

8 (2) Participating counties authorized by this subdivision shall  
9 provide specific programs of direct services based on individual  
10 family needs as reflected in the service plans to families of the  
11 following:

12 (A) Children who are dependent children not taken from  
13 physical custody of their parents or guardians pursuant to Section  
14 364.

15 (B) Children who are dependent children removed from the  
16 physical custody of their parents or guardian pursuant to Section  
17 361.

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

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

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

24 (F) Upon approval of the department, children who are  
25 determined to require out-of-home placement pursuant to Section  
26 7572.5 of the Government Code.

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

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

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

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

4 (B) Enhancing family functioning by building on family  
5 strengths.

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

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

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

11 (ii) The average length of stay in out-of-home care of children  
12 selected to receive services who have already been removed from  
13 their home and placed in out-of-home care is 50 percent less than  
14 the average length of stay in out-of-home care of children who do  
15 not receive program services.

16 (E) Two years after the termination of family preservation  
17 services:

18 (i) The average length of out-of-home stay of children selected  
19 to receive services under this section who, at the time of selection,  
20 are in out-of-home care, is 50 percent less than the average length  
21 of stay in out-of-home care for children in out-of-home care who  
22 do not receive services pursuant to this section.

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

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

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

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

35 (2) The county probation department may, with the approval of  
36 the State Department of Social Services, through an interagency  
37 agreement with the county welfare department, refer cases to the  
38 county welfare department for the direct provision of services  
39 under this subdivision.

1 (e) Foster care funds shall remain within the administrative  
2 authority of the county welfare department and shall be used only  
3 for placement services or placement prevention services or county  
4 welfare department administrative cost related to the interagency  
5 family preservation program.

6 (f) To the extent permitted by federal law, any federal funds  
7 provided for services to families and ~~children~~ *children, including*  
8 *Title IV-E waiver funds through the Social Security Act*, may be  
9 utilized for the purposes of this section.

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

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

16 (2) A county, subject to the approval of the State Department  
17 of Social Services, may claim federal financial participation, if  
18 allowable and available, as provided by the State Department of  
19 Social Services in the federal Promoting Safe and Stable Families  
20 program in accordance with the federal guidelines and regulations  
21 for that county's AFDC-FC expenditures pursuant to subdivision  
22 (d) of Section 11450, for children subject to Sections 300, 301,  
23 360, and 364, in advance, provided that the county conducts a  
24 program of family reunification and family maintenance services  
25 for families receiving these services pursuant to Sections 300, 301,  
26 360, and 364, and as permitted by the department, children subject  
27 to Sections 601, 602, 726, and 727 of this code, and Section 7572.5  
28 of the Government Code.

29 (h) In order to maintain federal funding and meet federal  
30 requirements, the State Department of Social Services and the  
31 Office of Child Abuse Prevention shall provide administrative  
32 oversight, monitoring, and consultation to ensure both of the  
33 following:

34 (1) Each county includes in its county plan information that  
35 details what services are to be funded under this section and who  
36 will be served, and how the services are coordinated with the array  
37 of services available in the county. In order to maintain federal  
38 funding to meet federal requirements, the State Department of  
39 Social Services shall review these plans and provide technical  
40 assistance as needed, as provided in Section 10601.2. In order to

1 meet federal requirements, the Office of Child Abuse Prevention  
2 shall require counties to submit annual reports, as part of the current  
3 reporting process, on program services and children and families  
4 served. The annual reporting process shall be developed jointly  
5 by the department and county agencies for the purpose of meeting  
6 federal reporting requirements.

7 (2) In order to maximize federal financial participation for the  
8 federal Promoting Safe and Stable Families grant, funds expended  
9 from this program are in compliance with data-reporting  
10 requirements in order to meet federal nonsupplantation  
11 requirements in accordance with Section 1357.32(f) of Title 45 of  
12 the Code of Federal Regulations, and the 25 percent state match  
13 requirement in accordance with Section 1357.32(d) of Title 45 of  
14 the Code of Federal Regulations.

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

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

21 16517. (a) (1) It is the intent of the Legislature to accomplish  
22 all of the following:

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

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

27 (C) To assist parents in securing appropriate housing and  
28 supportive services in order to reduce foster children's length of  
29 stay in out-of-home care and hasten reunification for foster children  
30 and their families when a lack of housing is the sole impediment  
31 to reunification.

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

36 (b) (1) For the purposes of the Section 8 housing certificate  
37 program created by Section 553 of the Cranston-Gonzalez National  
38 Affordable Housing Act (P.L. 101-625), the county department of  
39 social services is designated "the public child welfare agency."

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

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

9 (B) The county department of social services shall certify an  
10 eligible family as one for which the lack of adequate housing is a  
11 primary factor in the imminent placement of the family's child or  
12 children in out-of-home care or in the delayed discharge of a child  
13 or children to the family from out-of-home care.

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

19 (c) As used in this section, "Section 8" means Section 8 of the  
20 United States Housing Act of 1937 (Sec. 1437 et seq., Title 42,  
21 U.S.C.).

22 (d) The State Department of Social Services may, upon the  
23 request of a local public entity, provide technical assistance for  
24 the purpose of developing applications and plans from the local  
25 public entity for federal funding under the Section 8 housing  
26 certificate program created by Section 553 of the  
27 Cranston-Gonzalez National Affordable Housing Act (P.L.  
28 101-625).

29 (e) The State Department of Social Services is authorized to  
30 adopt emergency regulations in accordance with Chapter 3.5  
31 (commencing with Section 11340) of Part 1 of Division 3 of Title  
32 2 of the Government Code in order to implement the purposes of  
33 this section.

34 (f) *In addition to any available county funds, through Title IV-E*  
35 *of the Social Security Act, any other available waiver funds may*  
36 *be used by participating counties to assist parents in securing*  
37 *appropriate housing and supportive services, in order to reduce*  
38 *a foster child's length of stay in out-of-home care and hasten*  
39 *reunification for foster children and their families when a lack of*  
40 *housing is the sole impediment to reunification.*

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

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