

AMENDED IN SENATE APRIL 19, 2016
AMENDED IN SENATE MARCH 31, 2016
AMENDED IN SENATE MARCH 28, 2016

SENATE BILL

No. 1056

Introduced by Senator Liu

February 16, 2016

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

LEGISLATIVE COUNSEL'S DIGEST

SB 1056, as 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 and to order supportive services for the family to assist the family in maintaining housing, as specified.~~ *safe and adequate housing, as confirmed by the county child welfare agency, and to order the county to assist the family in maintaining housing with referral to, and coordination of, supportive services.* 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 or hold certain hearings. By imposing additional duties on local entities and social workers, 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 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.

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

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

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

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

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

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

34 (3) Notwithstanding subparagraphs (A), (B), and (C) of
35 paragraph (1), court-ordered services may be extended up to a
36 maximum time period not to exceed 18 months after the date the
37 child was originally removed from physical custody of his or her
38 parent or guardian if it can be shown, at the hearing held pursuant
39 to subdivision (f) of Section 366.21, that the permanent plan for
40 the child is that he or she will be returned and safely maintained

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 court-mandated services and ability to maintain contact with his
2 or her child, and shall document this information in the child's
3 case plan. Reunification services are subject to the applicable time
4 limitations imposed in subdivision (a). Services may include, but
5 shall not be limited to, all of the following:

6 (A) Maintaining contact between the parent and child through
7 collect telephone calls.

8 (B) Transportation services, when appropriate.

9 (C) Visitation services, when appropriate.

10 (D) Reasonable services to extended family members or foster
11 parents providing care for the child if the services are not
12 detrimental to the child.

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

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

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

39 (3) Notwithstanding any other law, if the incarcerated parent is
40 a woman seeking to participate in the community treatment

1 program operated by the Department of Corrections and
2 Rehabilitation pursuant to Chapter 4.8 (commencing with Section
3 1174) of Title 7 of Part 2 of, Chapter 4 (commencing with Section
4 3410) of Title 2 of Part 3 of, the Penal Code, the court shall
5 determine whether the parent's participation in a program is in the
6 child's best interest and whether it is suitable to meet the needs of
7 the parent and child.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

39 (i) In determining whether reunification services will benefit
40 the child pursuant to paragraph (6) or (7) of subdivision (b), the

1 court shall consider any information it deems relevant, including
2 the following factors:

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

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

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

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

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

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

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

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

30 (l) *As used in this section, "homeless" has the same meaning*
31 *as that term is defined in Section 103 of the federal*
32 *McKinney-Vento Homeless Assistance Act (42 U.S.C. Sec. 11302).*

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

35 366.1. Each supplemental report required to be filed pursuant
36 to Section 366 shall include, but not be limited to, a factual
37 discussion of each of the following subjects:

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

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

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

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

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

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

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

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

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

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

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

38 (C) If the siblings are not placed together in the same home,
39 why the siblings are not placed together and what efforts are being

1 made to place the siblings together, or why those efforts are not
2 appropriate.

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

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

5 (ii) If there are visits between the siblings, whether the visits
6 are supervised or unsupervised. If the visits are supervised, a
7 discussion of the reasons why the visits are supervised, and what
8 needs to be accomplished in order for the visits to be unsupervised.

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

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

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

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

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

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

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

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

1 appearance calendar. The court shall advise all persons present at
2 the hearing of the date of the future hearing and of their right to
3 be present and represented by counsel.

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

6 (c) At least 10 calendar days prior to the hearing, the social
7 worker shall file a supplemental report with the court regarding
8 the services provided or offered to the parent or legal guardian to
9 enable him or her to assume custody and the efforts made to
10 achieve legal permanence for the child if efforts to reunify fail,
11 including, but not limited to, efforts to maintain relationships
12 between a child who is 10 years of age or older and has been in
13 out-of-home placement for six months or longer and individuals
14 who are important to the child, consistent with the child's best
15 interests; the progress made; and, when relevant, the prognosis for
16 return of the child to the physical custody of his or her parent or
17 legal guardian; and shall make his or her recommendation for
18 disposition. If the child is a member of a sibling group described
19 in subparagraph (C) of paragraph (1) of subdivision (a) of Section
20 361.5, the report and recommendation may also take into account
21 those factors described in subdivision (e) relating to the child's
22 sibling group. If the recommendation is not to return the child to
23 a parent or legal guardian, the report shall specify why the return
24 of the child would be detrimental to the child. The social worker
25 shall provide the parent or legal guardian, counsel for the child,
26 and any court-appointed child advocate with a copy of the report,
27 including his or her recommendation for disposition, at least 10
28 calendar days prior to the hearing. In the case of a child removed
29 from the physical custody of his or her parent or legal guardian,
30 the social worker shall, at least 10 calendar days prior to the
31 hearing, provide a summary of his or her recommendation for
32 disposition to any foster parents, relative caregivers, and certified
33 foster parents who have been approved for adoption by the State
34 Department of Social Services when it is acting as an adoption
35 agency or by a county adoption agency, community care facility,
36 or foster family agency having the physical custody of the child.
37 The social worker shall include a copy of the Judicial Council
38 Caregiver Information Form (JV-290) with the summary of
39 recommendations to the child's foster parents, relative caregivers,
40 or foster parents approved for adoption, in the caregiver's primary

1 language when available, along with information on how to file
2 the form with the court.

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

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

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

1 not limited to, housing provided through rapid rehousing,
2 transitional, or permanent housing programs, and funded by federal,
3 state, or county sources, or through various nonprofit organizations.

4 (2) Regardless of whether the child is returned to a parent or
5 legal guardian, the court shall specify the factual basis for its
6 conclusion that the return would be detrimental or would not be
7 detrimental. The court also shall make appropriate findings
8 pursuant to subdivision (a) of Section 366; and, when relevant,
9 shall order any additional services reasonably believed to facilitate
10 the return of the child to the custody of his or her parent or legal
11 guardian. The court shall also inform the parent or legal guardian
12 that if the child cannot be returned home by the 12-month
13 permanency hearing, a proceeding pursuant to Section 366.26 may
14 be instituted. This section does not apply in a case where, pursuant
15 to Section 361.5, the court has ordered that reunification services
16 shall not be provided.

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

31 (4) For the purpose of placing and maintaining a sibling group
32 together in a permanent home, the court, in making its
33 determination to schedule a hearing pursuant to Section 366.26
34 for some or all members of a sibling group, as described in
35 subparagraph (C) of paragraph (1) of subdivision (a) of Section
36 361.5, shall review and consider the social worker's report and
37 recommendations. Factors the report shall address, and the court
38 shall consider, may include, but need not be limited to, whether
39 the sibling group was removed from parental care as a group, the
40 closeness and strength of the sibling bond, the ages of the siblings,

1 the appropriateness of maintaining the sibling group together, the
2 detriment to the child if sibling ties are not maintained, the
3 likelihood of finding a permanent home for the sibling group,
4 whether the sibling group is currently placed together in a
5 preadoptive home or has a concurrent plan goal of legal
6 permanency in the same home, the wishes of each child whose
7 age and physical and emotional condition permits a meaningful
8 response, and the best interests of each child in the sibling group.
9 The court shall specify the factual basis for its finding that it is in
10 the best interests of each child to schedule a hearing pursuant to
11 Section 366.26 within 120 days for some or all of the members of
12 the sibling group.

13 (5) If the child was removed initially under subdivision (g) of
14 Section 300 and the court finds by clear and convincing evidence
15 that the whereabouts of the parent are still unknown, or the parent
16 has failed to contact and visit the child, the court may schedule a
17 hearing pursuant to Section 366.26 within 120 days. The court
18 shall take into account any particular barriers to a parent's ability
19 to maintain contact with his or her child due to the parent's
20 incarceration, institutionalization, status as a minor, homelessness,
21 detention by the United States Department of Homeland Security,
22 or deportation. If the court finds by clear and convincing evidence
23 that the parent has been convicted of a felony indicating parental
24 unfitness, the court may schedule a hearing pursuant to Section
25 366.26 within 120 days.

26 (6) If the child had been placed under court supervision with a
27 previously noncustodial parent pursuant to Section 361.2, the court
28 shall determine whether supervision is still necessary. The court
29 may terminate supervision and transfer permanent custody to that
30 parent, as provided for by paragraph (1) of subdivision (b) of
31 Section 361.2.

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

37 (8) If the child is not returned to his or her parent or legal
38 guardian, the court shall determine whether reasonable services
39 that were designed to aid the parent or legal guardian in
40 overcoming the problems that led to the initial removal and the

1 continued custody of the child have been provided or offered to
2 the parent or legal guardian. The court shall order that those
3 services be initiated, continued, or terminated.

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

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

31 (B) The court shall also consider whether the child can be
32 returned to the custody of his or her parent who is enrolled in a
33 certified substance abuse treatment facility that allows a dependent
34 child to reside with his or her parent. The fact that the parent is
35 enrolled in a certified substance abuse treatment facility shall not
36 be, for that reason alone, prima facie evidence of detriment. The
37 failure of the parent or legal guardian to participate regularly and
38 make substantive progress in court-ordered treatment programs
39 shall be prima facie evidence that return would be detrimental.

1 (C) In making its determination, the court shall review and
2 consider the social worker's report and recommendations and the
3 report and recommendations of any child advocate appointed
4 pursuant to Section 356.5, shall consider the efforts or progress,
5 or both, demonstrated by the parent or legal guardian and the extent
6 to which he or she availed himself or herself of services provided,
7 taking into account the particular barriers to a minor parent or a
8 nonminor dependent parent, or an incarcerated, institutionalized,
9 detained, homeless, or deported parent's or legal guardian's access
10 to those court-mandated services and ability to maintain contact
11 with his or her child, and shall make appropriate findings pursuant
12 to subdivision (a) of Section 366.

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

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

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

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

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

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

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

(C) The parent or legal guardian has demonstrated the capacity and ability both to complete the objectives of his or her treatment

1 plan and to provide for the child's safety, protection, physical and
2 emotional well-being, and special needs.

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

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

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

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

33 (A) The parent or legal guardian has consistently and regularly
34 contacted and visited with the child, taking into account any
35 particular barriers to a parent's ability to maintain contact with his
36 or her child due to the parent's status as a minor, homelessness,
37 or arrest and receipt of an immigration hold, detention by the
38 United States Department of Homeland Security, or deportation.

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

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

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

17 (5) Order that the child remain in foster care, but only if the
18 court finds by clear and convincing evidence, based upon the
19 evidence already presented to it, including a recommendation by
20 the State Department of Social Services when it is acting as an
21 adoption agency or by a county adoption agency, that there is a
22 compelling reason for determining that a hearing held pursuant to
23 Section 366.26 is not in the best interests of the child because the
24 child is not a proper subject for adoption and has no one willing
25 to accept legal guardianship as of the hearing date. For purposes
26 of this section, a recommendation by the State Department of
27 Social Services when it is acting as an adoption agency or by a
28 county adoption agency that adoption is not in the best interests
29 of the child shall constitute a compelling reason for the court's
30 determination. That recommendation shall be based on the present
31 circumstances of the child and shall not preclude a different
32 recommendation at a later date if the child's circumstances change.
33 On and after January 1, 2012, the nonminor dependent's legal
34 status as an adult is in and of itself a compelling reason not to hold
35 a hearing pursuant to Section 366.26. The court may order that a
36 nonminor dependent who otherwise is eligible pursuant to Section
37 11403 remain in a planned, permanent living arrangement.

38 (A) The court shall make factual findings identifying any
39 barriers to achieving the permanent plan as of the hearing date.
40 When the child is under 16 years of age, the court shall order a

1 permanent plan of return home, adoption, tribal customary adoption
2 in the case of an Indian child, legal guardianship, or placement
3 with a fit and willing relative, as appropriate. When the child is
4 16 years of age or older, or is a nonminor dependent, and no other
5 permanent plan is appropriate at the time of the hearing, the court
6 may order another planned permanent living arrangement, as
7 described in paragraph (2) of subdivision (i) of Section 16501.

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

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

21 (h) In any case in which the court orders that a hearing pursuant
22 to Section 366.26 shall be held, it shall also order the termination
23 of reunification services to the parent or legal guardian. The court
24 shall continue to permit the parent or legal guardian to visit the
25 child pending the hearing unless it finds that visitation would be
26 detrimental to the child. The court shall make any other appropriate
27 orders to enable the child to maintain relationships with individuals,
28 other than the child's siblings, who are important to the child,
29 consistent with the child's best interests. When the court orders a
30 termination of reunification services to the parent or legal guardian,
31 it shall also order that the child's caregiver receive the child's birth
32 certificate in accordance with Sections 16010.4 and 16010.5.
33 Additionally, when the court orders a termination of reunification
34 services to the parent or legal guardian, it shall order, when
35 appropriate, that a child who is 16 years of age or older receive
36 his or her birth certificate.

37 (i) (1) Whenever a court orders that a hearing pursuant to
38 Section 366.26, including, when, in consultation with the child's
39 tribe, tribal customary adoption is recommended, shall be held, it
40 shall direct the agency supervising the child and the county

1 adoption agency, or the State Department of Social Services when
2 it is acting as an adoption agency, to prepare an assessment that
3 shall include:

4 (A) Current search efforts for an absent parent or parents or
5 legal guardians.

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

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

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

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

38 (F) A description of efforts to be made to identify a prospective
39 adoptive parent or legal guardian, including, but not limited to,

1 child-specific recruitment and listing on an adoption exchange
2 within the state or out of the state.

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

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

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

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

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

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

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

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

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

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

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

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

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

25 (m) *As used in this section, “homeless” has the same meaning*
26 *as that term is defined in Section 103 of the federal*
27 *McKinney-Vento Homeless Assistance Act (42 U.S.C. Sec. 11302).*
28 *“Homelessness” is the status of being homeless.*

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

31 366.215. (a) With respect to a hearing held pursuant to
32 subdivision (e) of Section 366.21, if the child in question was under
33 three years of age on the date of the initial removal, or is a member
34 of a sibling group described in subparagraph (C) of paragraph (1)
35 of subdivision (a) of Section 361.5, the court, in determining
36 whether to schedule a hearing pursuant to Section 366.26, shall
37 take into account any particular barriers to a parent’s ability to
38 maintain contact with his or her child due to the parent’s
39 incarceration, institutionalization, status as a minor, homelessness,

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

3 (b) *As used in this section, “homelessness” is the status of being*
4 *homeless, as defined in Section 103 of the federal McKinney-Vento*
5 *Homeless Assistance Act (42 U.S.C. Sec. 11302).*

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

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

1 or both, demonstrated by the parent or legal guardian and the extent
2 to which he or she availed himself or herself of services provided,
3 taking into account the particular barriers of a minor parent or a
4 nonminor dependent parent, or an incarcerated, institutionalized,
5 or homeless parent's or legal guardian's access to those
6 court-mandated services and ability to maintain contact with his
7 or her child; and shall make appropriate findings pursuant to
8 subdivision (a) of Section 366. The court shall also consider
9 whether the parent is in substantial compliance with the
10 court-ordered case plan, whether lack of housing is the sole
11 impediment to family reunification, and whether the child can be
12 returned to the parent upon the parent securing appropriate housing.
13 In making its determination, the court shall review and consider
14 the referral and coordination of services provided by the county,
15 and the efforts, progress, or both demonstrated by the parent, and
16 the extent to which he or she availed himself or herself of services
17 provided, taking into account the particular barriers to a homeless
18 parent's access to those services and ability to maintain contact
19 with his or her child. If the parent is in substantial compliance with
20 the court-ordered case plan and lack of housing is the sole
21 impediment to family reunification, the court may order that the
22 child be returned to the parent's physical custody within five days
23 after the parent has secured ~~appropriate housing and order~~
24 ~~supportive services for the family to assist the family in maintaining~~
25 ~~housing.~~ *safe and adequate housing, as confirmed by the county*
26 *child welfare agency, and may order the county to assist the family*
27 *in maintaining housing with referral to, and coordination of,*
28 *supportive services.* Appropriate housing may include, but is not
29 limited to, housing provided through rapid rehousing, transitional,
30 or permanent housing programs, and funded by federal, state, or
31 county sources, or through various nonprofit organizations.

32 (2) Whether or not the child is returned to his or her parent or
33 legal guardian, the court shall specify the factual basis for its
34 decision. If the child is not returned to a parent or legal guardian,
35 the court shall specify the factual basis for its conclusion that return
36 would be detrimental. If the child is not returned to his or her parent
37 or legal guardian, the court shall consider, and state for the record,
38 in-state and out-of-state options for the child's permanent
39 placement. If the child is placed out of the state, the court shall

1 make a determination whether the out-of-state placement continues
2 to be appropriate and in the best interests of the child.

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

1 than the child's siblings who are important to the child, consistent
2 with the child's best interests, and may make any appropriate order
3 to ensure that those relationships are maintained. The hearing shall
4 be held no later than 120 days from the date of the permanency
5 review hearing. The court shall also order termination of
6 reunification services to the parent or legal guardian. The court
7 shall continue to permit the parent or legal guardian to visit the
8 child unless it finds that visitation would be detrimental to the
9 child. The court shall determine whether reasonable services have
10 been offered or provided to the parent or legal guardian. For
11 purposes of this subdivision, evidence of any of the following
12 circumstances shall not, in and of themselves, be deemed a failure
13 to provide or offer reasonable services:

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

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

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

21 (b) If the child is not returned to a parent or legal guardian at
22 the permanency review hearing and the court determines by clear
23 and convincing evidence that the best interests of the child would
24 be met by the provision of additional reunification services to a
25 parent or legal guardian who is making significant and consistent
26 progress in a court-ordered residential substance abuse treatment
27 program, a parent who was either a minor parent or a nonminor
28 dependent parent at the time of the initial hearing making
29 significant and consistent progress in establishing a safe home for
30 the child's return, or a parent recently discharged from
31 incarceration, institutionalization, or the custody of the United
32 States Department of Homeland Security or a parent who is
33 homeless and making significant and consistent progress in
34 establishing a safe home for the child's return, the court may
35 continue the case for up to six months for a subsequent permanency
36 review hearing, provided that the hearing shall occur within 24
37 months of the date the child was originally taken from the physical
38 custody of his or her parent or legal guardian. The court shall
39 continue the case only if it finds that there is a substantial
40 probability that the child will be returned to the physical custody

1 of his or her parent or legal guardian and safely maintained in the
2 home within the extended period of time or that reasonable services
3 have not been provided to the parent or legal guardian. For the
4 purposes of this section, in order to find a substantial probability
5 that the child will be returned to the physical custody of his or her
6 parent or legal guardian and safely maintained in the home within
7 the extended period of time, the court shall be required to find all
8 of the following:

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

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

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

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

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

36 (c) (1) Whenever a court orders that a hearing pursuant to
37 Section 366.26, including when a tribal customary adoption is
38 recommended, shall be held, it shall direct the agency supervising
39 the child and the county adoption agency, or the State Department

1 of Social Services when it is acting as an adoption agency, to
2 prepare an assessment that shall include:

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

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

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

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

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

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

37 (G) In the case of an Indian child, in addition to subparagraphs
38 (A) to (F), inclusive, an assessment of the likelihood that the child
39 will be adopted, when, in consultation with the child’s tribe, a
40 tribal customary adoption, as defined in Section 366.24, is

1 recommended. If tribal customary adoption is recommended, the
2 assessment shall include an analysis of both of the following:

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

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

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

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

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

36 (e) As used in this section, "relative" means an adult who is
37 related to the child by blood, adoption, or affinity within the fifth
38 degree of kinship, including stepparents, stepsiblings, and all
39 relatives whose status is preceded by the words "great,"
40 "great-great," or "grand," or the spouse of any of those persons

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

8 *(f) As used in this section, “homeless” has the same meaning*
9 *as that term is defined in Section 103 of the federal*
10 *McKinney-Vento Homeless Assistance Act (42 U.S.C. Sec. 11302).*

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

13 366.25. (a) (1) When a case has been continued pursuant to
14 subdivision (b) of Section 366.22, the subsequent permanency
15 review hearing shall occur within 24 months after the date the
16 child was originally removed from the physical custody of his or
17 her parent or legal guardian. After considering the relevant and
18 admissible evidence, the court shall order the return of the child
19 to the physical custody of his or her parent or legal guardian unless
20 the court finds, by a preponderance of the evidence, that the return
21 of the child to his or her parent or legal guardian would create a
22 substantial risk of detriment to the safety, protection, or physical
23 or emotional well-being of the child. The social worker shall have
24 the burden of establishing that detriment. At the subsequent
25 permanency review hearing, the court shall consider the criminal
26 history, obtained pursuant to paragraph (1) of subdivision (f) of
27 Section 16504.5, of the parent or legal guardian subsequent to the
28 child’s removal to the extent that the criminal record is substantially
29 related to the welfare of the child or parent’s or legal guardian’s
30 ability to exercise custody and control regarding his or her child
31 provided that the parent or legal guardian agreed to submit
32 fingerprint images to obtain criminal history information as part
33 of the case plan. The court shall also consider whether the child
34 can be returned to the custody of a parent who is enrolled in a
35 certified substance abuse treatment facility that allows a dependent
36 child to reside with his or her parent. The fact that the parent is
37 enrolled in a certified substance abuse treatment facility shall not
38 be, for that reason alone, prima facie evidence of detriment. The
39 failure of the parent or legal guardian to participate regularly and
40 make substantive progress in court-ordered treatment programs

1 shall be prima facie evidence that return would be detrimental. In
2 making its determination, the court shall review and consider the
3 social worker's report and recommendations and the report and
4 recommendations of any child advocate appointed pursuant to
5 Section 356.5; shall consider the efforts or progress, or both,
6 demonstrated by the parent or legal guardian and the extent to
7 which he or she availed himself or herself of services provided;
8 and shall make appropriate findings pursuant to subdivision (a) of
9 Section 366. The court shall also consider whether the parent is in
10 substantial compliance with the court-ordered case plan, whether
11 lack of housing is the sole impediment to family reunification, and
12 whether the child can be returned to the parent upon the parent
13 securing appropriate housing. In making its determination, the
14 court shall review and consider the referral and coordination of
15 services provided by the county, and the efforts, progress, or both
16 demonstrated by the parent, and the extent to which he or she
17 availed himself or herself of services provided, taking into account
18 the particular barriers to a homeless parent's access to those
19 services and ability to maintain contact with his or her child. If the
20 parent is in substantial compliance with the court-ordered case
21 plan and lack of housing is the sole impediment to family
22 reunification, the court may order that the child be returned to the
23 parent's physical custody within five days after the parent has
24 secured appropriate housing and order supportive services for the
25 family to assist the family in maintaining housing, safe and
26 adequate housing, as confirmed by the county child welfare agency,
27 and may order the county to assist the family in maintaining
28 housing with referral to, and coordination of, supportive services.
29 Appropriate housing may include, but is not limited to, housing
30 provided through rapid rehousing, transitional, or permanent
31 housing programs, and funded by federal, state, or county sources,
32 or through various nonprofit organizations.

33 (2) Whether or not the child is returned to his or her parent or
34 legal guardian, the court shall specify the factual basis for its
35 decision. If the child is not returned to a parent or legal guardian,
36 the court shall specify the factual basis for its conclusion that return
37 would be detrimental. If the child is not returned to his or her parent
38 or legal guardian, the court shall consider and state for the record,
39 in-state and out-of-state options for the child's permanent
40 placement. If the child is placed out of the state, the court shall

1 make a determination whether the out-of-state placement continues
2 to be appropriate and in the best interests of the child.

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

1 court shall determine whether the agency has made reasonable
2 efforts to maintain the child's relationships with individuals other
3 than the child's siblings who are important to the child, consistent
4 with the child's best interests, and may make any appropriate order
5 to ensure that those relationships are maintained. The hearing shall
6 be held no later than 120 days from the date of the subsequent
7 permanency review hearing. The court shall also order termination
8 of reunification services to the parent or legal guardian. The court
9 shall continue to permit the parent or legal guardian to visit the
10 child unless it finds that visitation would be detrimental to the
11 child. The court shall determine whether reasonable services have
12 been offered or provided to the parent or legal guardian. For
13 purposes of this paragraph, evidence of any of the following
14 circumstances shall not, in and of themselves, be deemed a failure
15 to provide or offer reasonable services:

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

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

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

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

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

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

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

38 (D) A preliminary assessment of the eligibility and commitment
39 of any identified prospective adoptive parent or legal guardian,
40 including a prospective tribal customary adoptive parent,

1 particularly the caretaker, to include a social history including
2 screening for criminal records and prior referrals for child abuse
3 or neglect, the capability to meet the child's needs, and the
4 understanding of the legal and financial rights and responsibilities
5 of adoption and guardianship. If a proposed legal guardian is a
6 relative of the minor, the assessment shall also consider, but need
7 not be limited to, all of the factors specified in subdivision (a) of
8 Section 361.3 and in Section 361.4.

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

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

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

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

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

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

1 of the child from the relative caregiver for purposes of adoptive
2 placement.

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

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

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

35 (e) *As used in this section, “homeless” has the same meaning*
36 *as that term is defined in Section 103 of the federal*
37 *McKinney-Vento Homeless Assistance Act (42 U.S.C. Sec. 11302).*

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

1 16500.1. (a) It is the intent of the Legislature to use the
2 strengths of families and communities to serve the needs of children
3 who are alleged to be abused or neglected, as described in Section
4 300, to reduce the necessity for removing these children from their
5 home, to encourage speedy reunification of families when it can
6 be safely accomplished, to reduce the length of stay in out-of-home
7 care and hasten reunification when it can be safely accomplished
8 and lack of housing is the only impediment to reunification, to
9 locate permanent homes and families for children who cannot
10 return to their biological families, to reduce the number of
11 placements experienced by these children, to ensure that children
12 leaving the foster care system have support within their
13 communities, to improve the quality and homelike nature of
14 out-of-home care, and to foster the educational progress of children
15 in out-of-home care.

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

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

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

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

25 (4) Use team decisionmaking in case planning.

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

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

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

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

33 (9) Use community resources, including community-based
34 agencies and volunteer organizations, to assist in developing
35 placements for children and to provide support for children and
36 their families.

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

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

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

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

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

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

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

20 (C) Remain in communication with caseworkers and other
21 essential child welfare personnel who are displaced because of a
22 disaster.

23 (D) Preserve essential program records.

24 (E) Coordinate services and share information with other
25 counties.

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

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

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

35 (1) Consider the existing array of program models provided in
36 statute and in practice, including, but not limited to, wraparound
37 services, as defined in Section 18251, children's systems of care,
38 as provided for in Section 5852, the Oregon Family Unity or Santa
39 Clara County Family Conference models, which include family
40 conferences at key points in the casework process, such as when

1 out-of-home placement or return home is considered, and the Annie
2 E. Casey Foundation Family to Family initiative, which uses team
3 decisionmaking in case planning, community-based placement
4 practices requiring that children be placed in foster care in the
5 communities where they resided prior to placement, and involve
6 foster families as team members in family reunification efforts.

7 (2) Ensure that emergency response services, family
8 maintenance services, family reunification services, and permanent
9 placement services are coordinated with the implementation of the
10 models described in paragraph (1).

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

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

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

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

27 16500.5. (a) (1) The Legislature hereby declares its intent to
28 encourage the continuity of the family unit by:

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

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

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

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

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

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

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

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

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

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

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

1 county-operated resources and shall utilize available county
2 resources of at least equal quality and cost prior to new private
3 nonprofit resources.

4 (2) Participating counties authorized by this subdivision shall
5 provide specific programs of direct services based on individual
6 family needs as reflected in the service plans to families of the
7 following:

8 (A) Children who are dependent children not taken from
9 physical custody of their parents or guardians pursuant to Section
10 364.

11 (B) Children who are dependent children removed from the
12 physical custody of their parents or guardian pursuant to Section
13 361.

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

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

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

20 (F) Upon approval of the department, children who are
21 determined to require out-of-home placement pursuant to Section
22 7572.5 of the Government Code.

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

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

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

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

38 (B) Enhancing family functioning by building on family
39 strengths.

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

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

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

6 (ii) The average length of stay in out-of-home care of children
7 selected to receive services who have already been removed from
8 their home and placed in out-of-home care is 50 percent less than
9 the average length of stay in out-of-home care of children who do
10 not receive program services.

11 (E) Two years after the termination of family preservation
12 services:

13 (i) The average length of out-of-home stay of children selected
14 to receive services under this section who, at the time of selection,
15 are in out-of-home care, is 50 percent less than the average length
16 of stay in out-of-home care for children in out-of-home care who
17 do not receive services pursuant to this section.

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

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

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

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

30 (2) The county probation department may, with the approval of
31 the State Department of Social Services, through an interagency
32 agreement with the county welfare department, refer cases to the
33 county welfare department for the direct provision of services
34 under this subdivision.

35 (e) Foster care funds shall remain within the administrative
36 authority of the county welfare department and shall be used only
37 for placement services or placement prevention services or county
38 welfare department administrative cost related to the interagency
39 family preservation program.

1 (f) To the extent permitted by federal law, any federal funds
2 provided for services to families and children, including Title IV-E
3 waiver funds through the Social Security Act, may be utilized for
4 the purposes of this section.

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

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

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

24 (h) In order to maintain federal funding and meet federal
25 requirements, the State Department of Social Services and the
26 Office of Child Abuse Prevention shall provide administrative
27 oversight, monitoring, and consultation to ensure both of the
28 following:

29 (1) Each county includes in its county plan information that
30 details what services are to be funded under this section and who
31 will be served, and how the services are coordinated with the array
32 of services available in the county. In order to maintain federal
33 funding to meet federal requirements, the State Department of
34 Social Services shall review these plans and provide technical
35 assistance as needed, as provided in Section 10601.2. In order to
36 meet federal requirements, the Office of Child Abuse Prevention
37 shall require counties to submit annual reports, as part of the current
38 reporting process, on program services and children and families
39 served. The annual reporting process shall be developed jointly

1 by the department and county agencies for the purpose of meeting
2 federal reporting requirements.

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

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

15 (j) *As used in this section, “homeless” has the same meaning*
16 *as that term is defined in Section 103 of the federal*
17 *McKinney-Vento Homeless Assistance Act (42 U.S.C. Sec. 11302).*

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

20 16517. (a) (1) It is the intent of the Legislature to accomplish
21 all of the following:

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

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

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

31 (2) Through the Section 8 housing certificate program created
32 by Section 553 of the Cranston-Gonzalez National Affordable
33 Housing Act (Public Law 101-625), housing assistance may be
34 made available to families eligible for assistance under this
35 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 (Public Law 101-625), the county
39 department of social services is designated “the public child welfare
40 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 (Public Law 101-625), that an
6 eligible child is at imminent risk of placement in out-of-home care
7 or that an eligible child in out-of-home care under its supervision
8 may be 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 (42 U.S.C. Sec. 1437 et seq.).

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

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

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

O