

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

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An act to amend Sections 366.29 and 727.3 of the Welfare and Institutions Code, relating to adoption.

## LEGISLATIVE COUNSEL'S DIGEST

SB 1060, as introduced, Leno. Postadoption contact: siblings of dependent children.

Existing law authorizes a juvenile court, under certain conditions, to terminate the rights of a parent or parents of a child and order that the child be placed for adoption, if the child is adjudged a dependent child of the court based on a finding that the child has suffered, or there is a substantial risk that the child will suffer, specified harm or abuse. Existing law provides for the creation of a child and family team, which may include family members, certain professionals, or other individuals, who are convened by the county placing agency to provide input regarding the placement of and services to a dependent child, as part of his or her case plan within child welfare services. Existing law authorizes the court, in an adoption proceeding for the dependent child, with the consent of the prospective adoptive parent or parents of the child, to include in the final adoption order provisions for the adoptive parent or parents to facilitate postadoptive contact between the child and his or her sibling, as specified.

This bill would require a court, in an adoption proceeding for a dependent child, to order the convening of a child and family team meeting, attended by at least a facilitator, the siblings or their respective caregivers, as specified, and the prospective adoptive parent or parents. The bill would require the participants of the meeting to decide whether to voluntarily enter into a postadoptive sibling contact agreement, as

specified, before the adoption is finalized. By requiring new duties of local county officials, this bill would impose a state-mandated local program.

Existing law requires a juvenile court, in the case of a minor declared a ward and ordered to be placed in foster care, and where the minor has continuing involvement with his or her parents or legal guardians, to include in its order placing the minor in a permanent placement a specification of the nature and frequency of visiting arrangements with the parents or legal guardians.

This bill would expand this provision to also apply to visiting arrangements with siblings of the minor.

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 366.29 of the Welfare and Institutions  
 2 Code is amended to read:  
 3 366.29. (a) When a court, pursuant to Section 366.26, orders  
 4 that a dependent child be placed for adoption, nothing in the  
 5 adoption laws of this state shall be construed to prevent the  
 6 prospective adoptive parent or parents of the child from expressing  
 7 a willingness to facilitate postadoptive sibling contact. With the  
 8 consent of the adoptive parent or parents, the court may include  
 9 in the final adoption order provisions for the adoptive parent or  
 10 parents to facilitate postadoptive sibling contact. In no event shall  
 11 the continuing validity of the adoption be contingent upon the  
 12 postadoptive contact, nor shall the ability of the adoptive parent  
 13 or parents and the child to change residence within or outside the  
 14 state be impaired by the order for contact.  
 15 (b) *The court shall order the convening of a meeting of a child*  
 16 *and family team, as defined in subdivision (a) of Section 16501,*  
 17 *regarding postadoptive contact with the siblings of the child,*  
 18 *including, but not limited to, siblings under the court's jurisdiction.*  
 19 *A sibling 12 years of age or older may represent himself or herself*

1 *at the meeting. A sibling under 12 years of age shall be represented*  
2 *by his or her caregiver. The meeting shall be attended by at least*  
3 *a facilitator, the siblings or their respective caregivers on the basis*  
4 *of age, and the prospective adoptive parent or parents. The*  
5 *participants of the meeting shall decide whether to voluntarily*  
6 *enter into a postadoptive sibling contact agreement, pursuant to*  
7 *this section and Section 8616.5 of the Family Code, before the*  
8 *adoption is finalized.*

9 ~~(b)~~

10 (c) If, following entry of an order for sibling contact pursuant  
11 to subdivision (a), it is determined by the adoptive parent or parents  
12 that sibling contact poses a threat to the health, safety, or well-being  
13 of the adopted child, the adoptive parent or parents may terminate  
14 the sibling contact, provided that the adoptive parent or parents  
15 shall submit written notification to the court within 10 days after  
16 terminating the contact, which notification shall specify to the  
17 court the reasons why the health, safety, or well-being of the  
18 adopted child would be threatened by continued sibling contact.

19 ~~(e)~~

20 (d) Upon the granting of the adoption petition and the issuing  
21 of the order of adoption of a child who is a dependent of the  
22 juvenile court, the jurisdiction of the juvenile court with respect  
23 to the dependency proceedings of that child shall be terminated.  
24 Nonetheless, the court granting the petition of adoption shall  
25 maintain jurisdiction over the child for enforcement of the  
26 postadoption contact agreement. The court may only order  
27 compliance with the postadoption contact agreement upon a finding  
28 of both of the following:

29 (1) The party seeking the enforcement participated, in good  
30 faith, in mediation or other appropriate alternative dispute  
31 resolution proceedings regarding the conflict, prior to the filing of  
32 the enforcement action.

33 (2) The enforcement is in the best interest of the child.

34 SEC. 2. Section 727.3 of the Welfare and Institutions Code is  
35 amended to read:

36 727.3. The purpose of this section is to provide a means to  
37 monitor the safety and well-being of every minor in foster care  
38 who has been declared a ward of the juvenile court pursuant to  
39 Section 601 or 602 and to ensure that everything reasonably  
40 possible is done to facilitate the safe and early return of the minor

1 to his or her own home or to establish an alternative permanent  
2 plan for the minor.

3 (a) (1) For every minor declared a ward and ordered to be  
4 placed in foster care, a permanency planning hearing shall be  
5 conducted within 12 months of the date the minor entered foster  
6 care, as defined in paragraph (4) of subdivision (d) of Section  
7 727.4. Subsequent permanency planning hearings shall be  
8 conducted periodically, but no less frequently than once every 12  
9 months thereafter during the period of placement. It shall be the  
10 duty of the probation officer to prepare a written social study report  
11 including an updated case plan and a recommendation for a  
12 permanent plan, pursuant to subdivision (c) of Section 706.5, and  
13 submit the report to the court prior to each permanency planning  
14 hearing, pursuant to subdivision (b) of Section 727.4.

15 (2) Prior to any permanency planning hearing involving a minor  
16 in the physical custody of a community care facility or foster family  
17 agency, the facility or agency may file with the court a report  
18 containing its recommendations, in addition to the probation  
19 officer's social study. Prior to any permanency planning hearing  
20 involving the physical custody of a foster parent, relative caregiver,  
21 preadoptive parent, or legal guardian, that person may present to  
22 the court a report containing his or her recommendations. The  
23 court shall consider all reports and recommendations filed pursuant  
24 to this subdivision.

25 (3) If the minor has a continuing involvement with his or her  
26 parents or legal guardians, the parents or legal guardians shall be  
27 involved in the planning for a permanent placement. The court  
28 order placing the minor in a permanent placement shall include a  
29 specification of the nature and frequency of visiting arrangements  
30 with the ~~parents or legal guardians.~~ *parents, legal guardians, or*  
31 *siblings.*

32 (4) At each permanency planning hearing, the court shall order  
33 a permanent plan for the minor, as described in subdivision (b).  
34 The court shall also make findings, as described in subdivision (e)  
35 of Section 727.2. In the case of a minor who has reached 16 years  
36 of age or older, the court shall, in addition, determine the services  
37 needed to assist the minor to make the transition from foster care  
38 to successful adulthood. The court shall make all of these  
39 determinations on a case-by-case basis and make reference to the

1 probation officer’s report, the case plan, or other evidence relied  
2 upon in making its decisions.

3 (5) When the minor is 16 years of age or older, and is in another  
4 planned permanent living arrangement, the court, at each  
5 permanency planning hearing, shall do all of the following:

6 (A) Ask the minor about his or her desired permanency outcome.

7 (B) Make a judicial determination explaining why, as of the  
8 hearing date, another planned permanent living arrangement is the  
9 best permanency plan for the minor.

10 (C) State for the record the compelling reason or reasons why  
11 it continues not to be in the best interest of the minor to return  
12 home, be placed for adoption, be placed with a legal guardian, or  
13 be placed with a fit and willing relative.

14 (b) At all permanency planning hearings, the court shall  
15 determine the permanent plan for the minor. The court shall order  
16 one of the following permanent plans, which are, in order of  
17 priority:

18 (1) Return of the minor to the physical custody of the parent or  
19 legal guardian. After considering the admissible and relevant  
20 evidence, the court shall order the return of the minor to the  
21 physical custody of his or her parent or legal guardian unless:

22 (A) Reunification services were not offered, pursuant to  
23 subdivision (b) of Section 727.2.

24 (B) The court finds, by a preponderance of the evidence, that  
25 the return of the minor to his or her parent or legal guardian would  
26 create a substantial risk of detriment to the safety, protection, or  
27 physical or emotional well-being of the minor. The probation  
28 department shall have the burden of establishing that detriment.  
29 In making its determination, the court shall review and consider  
30 the social study report and recommendations pursuant to Section  
31 706.5, the report and recommendations of any child advocate  
32 appointed for the minor in the case, and any other reports submitted  
33 pursuant to paragraph (2) of subdivision (a), and shall consider  
34 the efforts or progress, or both, demonstrated by the minor and  
35 family and the extent to which the minor availed himself or herself  
36 of the services provided.

37 (2) Order that the permanent plan for the minor will be to return  
38 the minor to the physical custody of the parent or legal guardian,  
39 order further reunification services to be provided to the minor  
40 and his or her parent or legal guardian for a period not to exceed

1 six months and continue the case for up to six months for a  
2 subsequent permanency planning hearing, provided that the  
3 subsequent hearing shall occur within 18 months of the date the  
4 minor was originally taken from the physical custody of his or her  
5 parent or legal guardian. The court shall continue the case only if  
6 it finds that there is a substantial probability that the minor will be  
7 returned to the physical custody of his or her parent or legal  
8 guardian and safely maintained in the home within the extended  
9 period of time or that reasonable services have not been provided  
10 to the parent or guardian. For purposes of this section, in order to  
11 find that there is a substantial probability that the minor will be  
12 returned to the physical custody of his or her parent or legal  
13 guardian, the court shall be required to find that the minor and his  
14 or her parent or legal guardian have demonstrated the capacity and  
15 ability to complete the objectives of the case plan.

16 The court shall inform the parent or legal guardian that if the  
17 minor cannot be returned home by the next permanency planning  
18 hearing, a proceeding pursuant to Section 727.31 may be initiated.

19 The court shall not continue the case for further reunification  
20 services if it has been 18 months or more since the date the minor  
21 was originally taken from the physical custody of his or her parent  
22 or legal guardian.

23 (3) Identify adoption as the permanent plan and order that a  
24 hearing be held within 120 days, pursuant to the procedures  
25 described in Section 727.31. The court shall only set a hearing  
26 pursuant to Section 727.31 if there is clear and convincing evidence  
27 that reasonable services have been provided or offered to the  
28 parents. When the court sets a hearing pursuant to Section 727.31,  
29 it shall order that an adoption assessment report be prepared,  
30 pursuant to subdivision (b) of Section 727.31.

31 (4) Order a legal guardianship, pursuant to procedures described  
32 in subdivisions (c) to (f), inclusive, of Section 728.

33 (5) Place the minor with a fit and willing relative. “Placement  
34 with a fit and willing relative” means placing the minor with an  
35 appropriate approved relative who is willing to provide a permanent  
36 and stable home for the minor, but is unable or unwilling to become  
37 the legal guardian. When a minor is placed with a fit and willing  
38 relative, the court may authorize the relative to provide the same  
39 legal consent for the minor’s medical, surgical, and dental care,  
40 and education as the custodial parent of the minor.

1 (6) (A) If he or she is 16 years of age or older, place the minor  
2 in another planned permanent living arrangement. For purposes  
3 of this section, “planned permanent living arrangement” means  
4 any permanent living arrangement described in Section 11402 that  
5 is ordered by the court for a minor 16 years of age or older when  
6 there is a compelling reason or reasons to determine that it is not  
7 in the best interest of the minor to have any permanent plan listed  
8 in paragraphs (1) to (5), inclusive. These plans include, but are not  
9 limited to, placement in a specific, identified foster family home,  
10 program, or facility on a permanent basis, or placement in a  
11 transitional housing placement facility. When the court places a  
12 minor in a planned permanent living arrangement, the court shall  
13 specify the goal of the placement, which may include, but shall  
14 not be limited to, return home, emancipation, guardianship, or  
15 permanent placement with a relative.

16 The court shall only order that the minor remain in a planned  
17 permanent living arrangement if the court finds by clear and  
18 convincing evidence, based upon the evidence already presented  
19 to it that there is a compelling reason, as defined in subdivision  
20 (c), for determining that a plan of termination of parental rights  
21 and adoption is not in the best interest of the minor.

22 (B) If the minor is under 16 years of age and the court finds by  
23 clear and convincing evidence, based upon the evidence already  
24 presented to it, that there is a compelling reason, as defined in  
25 subdivision (c), for determining that a plan of termination of  
26 parental rights and adoption is not in the best interest of the minor  
27 as of the hearing date, the court shall order the minor to remain in  
28 a foster care placement with a permanent plan of return home,  
29 adoption, legal guardianship, or placement with a fit and willing  
30 relative, as appropriate. The court shall make factual findings  
31 identifying any barriers to achieving the permanent plan as of the  
32 hearing date.

33 (c) A compelling reason for determining that a plan of  
34 termination of parental rights and adoption is not in the best interest  
35 of the minor is any of the following:

36 (1) Documentation by the probation department that adoption  
37 is not in the best interest of the minor and is not an appropriate  
38 permanency goal. That documentation may include, but is not  
39 limited to, documentation that:

1 (A) The minor is 12 years of age or older and objects to  
2 termination of parental rights.

3 (B) The minor is 17 years of age or older and specifically  
4 requests that transition to independent living with the identification  
5 of a caring adult to serve as a lifelong connection be established  
6 as his or her permanent plan. On and after January 1, 2012, this  
7 includes a minor who requests that his or her transitional  
8 independent living case plan include modification of his or her  
9 jurisdiction to that of dependency jurisdiction pursuant to  
10 subdivision (b) of Section 607.2 or subdivision (i) of Section 727.2,  
11 or to that of transition jurisdiction pursuant to Section 450, in order  
12 to be eligible as a nonminor dependent for the extended benefits  
13 pursuant to Section 11403.

14 (C) The parent or guardian and the minor have a significant  
15 bond, but the parent or guardian is unable to care for the minor  
16 because of an emotional or physical disability, and the minor's  
17 caregiver has committed to raising the minor to the age of majority  
18 and facilitating visitation with the disabled parent or guardian.

19 (D) The minor agrees to continued placement in a residential  
20 treatment facility that provides services specifically designed to  
21 address the minor's treatment needs, and the minor's needs could  
22 not be served by a less restrictive placement.

23 The probation department's recommendation that adoption is  
24 not in the best interest of the minor shall be based on the present  
25 family circumstances of the minor and shall not preclude a different  
26 recommendation at a later date if the minor's family circumstances  
27 change.

28 (2) Documentation by the probation department that no grounds  
29 exist to file for termination of parental rights.

30 (3) Documentation by the probation department that the minor  
31 is an unaccompanied refugee minor, or there are international legal  
32 obligations or foreign policy reasons that would preclude  
33 terminating parental rights.

34 (4) A finding by the court that the probation department was  
35 required to make reasonable efforts to reunify the minor with the  
36 family pursuant to subdivision (a) of Section 727.2, and did not  
37 make those efforts.

38 (5) Documentation by the probation department that the minor  
39 is living with a relative who is unable or unwilling to adopt the  
40 minor because of exceptional circumstances that do not include

1 an unwillingness to accept legal or financial responsibility for the  
2 minor, but who is willing and capable of providing the minor with  
3 a stable and permanent home environment, and the removal of the  
4 minor from the physical custody of his or her relative would be  
5 detrimental to the minor’s emotional well-being.

6 (d) Nothing in this section shall be construed to limit the ability  
7 of a parent to voluntarily relinquish his or her child to the State  
8 Department of Social Services when it is acting as an adoption  
9 agency or to a county adoption agency at any time while the minor  
10 is a ward of the juvenile court if the department or county adoption  
11 agency is willing to accept the relinquishment.

12 (e) Any change in the permanent plan of a minor placed with a  
13 fit and willing relative or in a planned permanent living  
14 arrangement shall be made only by order of the court pursuant to  
15 a Section 778 petition or at a regularly scheduled and noticed status  
16 review hearing or permanency planning hearing. Any change in  
17 the permanent plan of a minor placed in a guardianship shall be  
18 made only by order of the court pursuant to a motion filed in  
19 accordance with Section 728.

20 SEC. 3. To the extent that this act has an overall effect of  
21 increasing the costs already borne by a local agency for programs  
22 or levels of service mandated by the 2011 Realignment Legislation  
23 within the meaning of Section 36 of Article XIII of the California  
24 Constitution, it shall apply to local agencies only to the extent that  
25 the state provides annual funding for the cost increase. Any new  
26 program or higher level of service provided by a local agency  
27 pursuant to this act above the level for which funding has been  
28 provided shall not require a subvention of funds by the state nor  
29 otherwise be subject to Section 6 of Article XIII B of the California  
30 Constitution.