

AMENDED IN SENATE MAY 31, 2016

AMENDED IN SENATE APRIL 19, 2016

SENATE BILL

No. 1060

Introduced by Senator Leno

(Coauthors: Senators Allen and McGuire)

(Coauthors: Assembly Members Brown, Chiu, Chu, *Cristina Garcia*,
Linder, Lopez, McCarty, and Williams)

February 16, 2016

An act to *amend Section 8616.5 of the Family Code, and to amend Sections ~~366.29 and 727.3~~ 366.29, 727.3, and 16002* of the Welfare and Institutions Code, relating to adoption.

LEGISLATIVE COUNSEL'S DIGEST

SB 1060, as amended, Leno. Postadoption contact: siblings of dependent ~~children: children or wards.~~

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 regarding postadoptive contact with the siblings of the child, unless the court finds that such a meeting may be detrimental to the child. The bill would require the meeting to be 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 provides that a minor may be adjudged a dependent child or a ward of the juvenile court under specified circumstances. Existing law authorizes the court to place a minor who has been removed from the custody of his or her parent or guardian in foster care, among other placements. Existing law allows, in an adoption proceeding, for continuing contact between the birth relatives and a child if a postadoption contact agreement is entered into voluntarily and is in the best interests of the child at the time the adoption petition is granted.

Existing law requires, if parental rights are terminated and the court orders a dependent child or ward to be placed for adoption, the county adoption agency or the State Department of Social Services to take specified steps, with exceptions, to facilitate ongoing sibling contact, including the encouragement of prospective adoptive parents to make a plan for facilitating postadoptive contact, as specified.

This bill would instead require the county placing agency, as part of the above steps, to the extent practicable, to convene a meeting with the child, the sibling or siblings of the child, the prospective adoptive parent or parents, and a facilitator for the purpose of deciding whether to voluntarily execute a postadoption sibling contact agreement. By requiring new duties on a county placing agency relating to meetings on postadoption sibling contact agreements, this bill would impose a state-mandated local program.

Existing law authorizes the court, in an adoption proceeding for a 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.

The bill would require the court to inquire into the status of the development of a voluntary postadoption sibling contact agreement at the time of consideration of an adoption petition.

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.

This bill would also make conforming changes to related provisions.

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 8616.5 of the Family Code is amended
2 to read:

3 8616.5. (a) The Legislature finds and declares that some
4 adoptive children may benefit from either direct or indirect contact
5 with birth relatives, including the birth parent or parents *or any*
6 *siblings*, or an Indian tribe, after being adopted. Postadoption
7 contact agreements are intended to ensure children of an achievable
8 level of continuing contact when contact is beneficial to the
9 children and the agreements are voluntarily ~~entered into~~ *executed*
10 by birth relatives, including the birth parent or parents *or any*
11 *siblings*, or an Indian tribe, and adoptive parents. Nothing in this
12 section requires all of the listed parties to participate in the
13 development of a postadoption contact agreement in order for the
14 agreement to be ~~entered into~~ *executed*.

15 (b) (1) Nothing in the adoption laws of this state shall be
16 construed to prevent the adopting parent or parents, the birth

1 relatives, including the birth parent or parents *or any siblings*, or
2 an Indian tribe, and the child from voluntarily ~~entering into~~
3 *executing* a written agreement to permit continuing contact between
4 the birth relatives, including the birth parent or parents *or any*
5 *siblings*, or an Indian tribe, and the child if the agreement is found
6 by the court to have been ~~entered into~~ *executed* voluntarily and to
7 be in the best interests of the child at the time the adoption petition
8 is granted.

9 (2) The terms of any postadoption contact agreement executed
10 under this section shall be limited to, but need not include, all of
11 the following:

12 (A) Provisions for visitation between the child and a birth parent
13 or parents and other birth relatives, including siblings, and the
14 child's Indian tribe if the case is governed by the Indian Child
15 Welfare Act (25 U.S.C. Sec. 1901 et seq.).

16 (B) Provisions for future contact between a birth parent or
17 parents or other birth relatives, including siblings, or both, and the
18 child or an adoptive parent, or both, and in cases governed by the
19 Indian Child Welfare Act, the child's Indian tribe.

20 (C) Provisions for the sharing of information about the child in
21 the future.

22 (3) The terms of any postadoption contact agreement with birth
23 ~~relatives~~ *relatives, including siblings*, other than the child's birth
24 parent or parents shall be limited to the sharing of information
25 about the child, unless the child has a preexisting relationship with
26 the birth relative.

27 (c) At the time an adoption decree is entered pursuant to a
28 petition filed pursuant to Section 8714, 8714.5, 8802, 8912, or
29 9000, the court entering the decree may grant postadoption
30 privileges if an agreement for those privileges has been ~~entered~~
31 ~~into~~, *executed*, including agreements ~~entered into~~ *executed* pursuant
32 to subdivision (f) of Section 8620. The hearing to grant the
33 adoption petition and issue an order of adoption may be continued
34 as necessary to permit parties who are in the process of negotiating
35 a postadoption agreement to reach a final agreement.

36 (d) The child who is the subject of the adoption petition shall
37 be considered a party to the postadoption contact agreement. The
38 written consent to the terms and conditions of the postadoption
39 contact agreement and any subsequent modifications of the
40 agreement by a child who is 12 years of age or older is a necessary

1 condition to the granting of privileges regarding visitation, contact,
2 or sharing of information about the child, unless the court finds
3 by a preponderance of the evidence that the agreement, as written,
4 is in the best interests of the child. Any child who has been found
5 to come within Section 300 of the Welfare and Institutions Code
6 or who is the subject of a petition for jurisdiction of the juvenile
7 court under Section 300 of the Welfare and Institutions Code shall
8 be represented by an attorney for purposes of consent to the
9 postadoption contact agreement.

10 (e) A postadoption contact agreement shall contain the following
11 warnings in bold type:

12 (1) After the adoption petition has been granted by the court,
13 the adoption cannot be set aside due to the failure of an adopting
14 parent, a birth parent, a birth relative, *including a sibling*, an Indian
15 tribe, or the child to follow the terms of this agreement or a later
16 change to this agreement.

17 (2) A disagreement between the parties or litigation brought to
18 enforce or modify the agreement shall not affect the validity of
19 the adoption and shall not serve as a basis for orders affecting the
20 custody of the child.

21 (3) A court will not act on a petition to change or enforce this
22 agreement unless the petitioner has participated, or attempted to
23 participate, in good faith in mediation or other appropriate dispute
24 resolution proceedings to resolve the dispute.

25 (f) Upon the granting of the adoption petition and the issuing
26 of the order of adoption of a child who is a dependent of the
27 juvenile court, juvenile court dependency jurisdiction shall be
28 terminated. Enforcement of the postadoption contact agreement
29 shall be under the continuing jurisdiction of the court granting the
30 petition of adoption. The court may not order compliance with the
31 agreement absent a finding that the party seeking the enforcement
32 participated, or attempted to participate, in good faith in mediation
33 or other appropriate dispute resolution proceedings regarding the
34 conflict, prior to the filing of the enforcement action, and that the
35 enforcement is in the best interests of the child. Documentary
36 evidence or offers of proof may serve as the basis for the court's
37 decision regarding enforcement. No testimony or evidentiary
38 hearing shall be required. The court shall not order further
39 investigation or evaluation by any public or private agency or
40 individual absent a finding by clear and convincing evidence that

1 the best interests of the child may be protected or advanced only
2 by that inquiry and that the inquiry will not disturb the stability of
3 the child's home to the detriment of the child.

4 (g) The court may not award monetary damages as a result of
5 the filing of the civil action pursuant to subdivision ~~(e)~~ of this
6 section. *(e)*.

7 (h) A postadoption contact agreement may be modified or
8 terminated only if either of the following occurs:

9 (1) All parties, including the child if the child is 12 years of age
10 or older at the time of the requested termination or modification,
11 have signed a modified postadoption contact agreement and the
12 agreement is filed with the court that granted the petition of
13 adoption.

14 (2) The court finds all of the following:

15 (A) The termination or modification is necessary to serve the
16 best interests of the child.

17 (B) There has been a substantial change of circumstances since
18 the original agreement was executed and approved by the court.

19 (C) The party seeking the termination or modification has
20 participated, or attempted to participate, in good faith in mediation
21 or other appropriate dispute resolution proceedings prior to seeking
22 court approval of the proposed termination or modification.

23 Documentary evidence or offers of proof may serve as the basis
24 for the court's decision. No testimony or evidentiary hearing shall
25 be required. The court shall not order further investigation or
26 evaluation by any public or private agency or individual absent a
27 finding by clear and convincing evidence that the best interests of
28 the child may be protected or advanced only by that inquiry and
29 that the inquiry will not disturb the stability of the child's home
30 to the detriment of the child.

31 (i) All costs and fees of mediation or other appropriate dispute
32 resolution proceedings shall be borne by each party, excluding the
33 child. All costs and fees of litigation shall be borne by the party
34 filing the action to modify or enforce the agreement when no party
35 has been found by the court as failing to comply with an existing
36 postadoption contact agreement. Otherwise, a party, other than the
37 child, found by the court as failing to comply without good cause
38 with an existing agreement shall bear all the costs and fees of
39 litigation.

1 (j) The Judicial Council shall adopt rules of court and forms for
2 motions to enforce, terminate, or modify postadoption contact
3 agreements.

4 (k) The court ~~may~~ *shall* not set aside a decree of adoption,
5 rescind a relinquishment, or modify an order to terminate parental
6 rights or any other prior court order because of the failure of a
7 birth parent, adoptive parent, birth relative, *including a sibling*, an
8 Indian tribe, or the child to comply with any or all of the original
9 terms of, or subsequent modifications to, the postadoption contact
10 agreement, except as follows:

11 (1) Prior to issuing the order of adoption, in an adoption
12 involving an Indian child, the court may, upon a petition of the
13 birth parent, birth relative, *including a sibling*, or an Indian tribe,
14 order the parties to engage in family mediation services for the
15 purpose of reaching a postadoption contact agreement if the
16 prospective adoptive parent fails to negotiate in good faith to ~~enter~~
17 ~~into~~ *execute* a postadoption contact agreement, after having agreed
18 to enter into negotiations, provided that the failure of the parties
19 to reach an agreement is not in and of itself proof of bad faith.

20 (2) Prior to issuing the order of adoption, if the parties fail to
21 negotiate in good faith to ~~enter into~~ *execute* a postadoption contact
22 agreement during the negotiations entered into pursuant to ~~to~~, and
23 in accordance ~~with~~ *with*, paragraph (1), the court may modify prior
24 orders or issue new orders as necessary to ensure the best interest
25 of the Indian child is met, including, but not limited to, requiring
26 parties to engage in further family mediation services for the
27 purpose of reaching a postadoption contact agreement, initiating
28 guardianship proceeding in lieu of adoption, or authorizing a
29 change of adoptive placement for the child.

30 (l) *As used in this section, "sibling" means a person related to*
31 *the identified child by blood, adoption, or affinity through a*
32 *common legal or biological parent.*

33 **SECTION 1.**

34 *SEC. 2.* Section 366.29 of the Welfare and Institutions Code
35 is amended to read:

36 366.29. (a) When a court, pursuant to Section 366.26, orders
37 that a dependent child be placed for adoption, nothing in the
38 adoption laws of this state shall be construed to prevent the
39 prospective adoptive parent or parents of the child from expressing
40 a willingness to facilitate ~~postadoptive~~ *postadoption* sibling contact.

1 With the consent of the adoptive parent or parents, the court may
2 include in the final adoption order provisions for the adoptive
3 parent or parents to facilitate ~~postadoptive~~ *postadoption* sibling
4 contact. In no event shall the continuing validity of the adoption
5 be contingent upon the ~~postadoptive~~ *postadoption* contact, nor
6 shall the ability of the adoptive parent or parents and the child to
7 change residence within or outside the state be impaired by the
8 order for contact.

9 ~~(b) Unless the court finds that such a meeting may be detrimental~~
10 ~~to the child, the court shall order the convening of a meeting of a~~
11 ~~child and family team, as defined in subdivision (a) of Section~~
12 ~~16501, regarding postadoptive contact with the siblings of the~~
13 ~~child, including, but not limited to, siblings under the court's~~
14 ~~jurisdiction. A sibling 12 years of age or older may represent~~
15 ~~himself or herself at the meeting. A sibling under 12 years of age~~
16 ~~shall be represented by his or her caregiver. The meeting shall be~~
17 ~~attended by at least a facilitator, the siblings or their respective~~
18 ~~caregivers on the basis of age, and the prospective adoptive parent~~
19 ~~or parents. The participants of the meeting shall decide whether~~
20 ~~to voluntarily enter into a postadoptive sibling contact agreement,~~
21 ~~pursuant to this section and Section 8616.5 of the Family Code,~~
22 ~~before the adoption is finalized.~~

23 ~~(b) At the time of consideration of an adoption petition, the~~
24 ~~court shall inquire into the status of the development of a voluntary~~
25 ~~postadoption sibling contact agreement pursuant to subdivision~~
26 ~~(e) of Section 16002.~~

27 (c) If, following entry of an order for sibling contact pursuant
28 to subdivision (a), it is determined by the adoptive parent or parents
29 that sibling contact poses a threat to the health, safety, or well-being
30 of the adopted child, the adoptive parent or parents may terminate
31 the sibling contact, provided that the adoptive parent or parents
32 shall submit written notification to the court within 10 days after
33 terminating the contact, which notification shall specify to the
34 court the reasons why the health, safety, or well-being of the
35 adopted child would be threatened by continued sibling contact.

36 (d) Upon the granting of the adoption petition and the issuing
37 of the order of adoption of a child who is a dependent of the
38 juvenile court, the jurisdiction of the juvenile court with respect
39 to the dependency proceedings of that child shall be terminated.
40 Nonetheless, the court granting the petition of adoption shall

1 maintain jurisdiction over the child for enforcement of the
2 postadoption contact agreement. The court may only order
3 compliance with the postadoption contact agreement upon a finding
4 of both of the following:

5 (1) The party seeking the enforcement participated, in good
6 faith, in mediation or other appropriate alternative dispute
7 resolution proceedings regarding the conflict, prior to the filing of
8 the enforcement action.

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

10 ~~SEC. 2.~~

11 *SEC. 3.* Section 727.3 of the Welfare and Institutions Code is
12 amended to read:

13 727.3. The purpose of this section is to provide a means to
14 monitor the safety and well-being of every minor in foster care
15 who has been declared a ward of the juvenile court pursuant to
16 Section 601 or 602 and to ensure that everything reasonably
17 possible is done to facilitate the safe and early return of the minor
18 to his or her own home or to establish an alternative permanent
19 plan for the minor.

20 (a) (1) For every minor declared a ward and ordered to be
21 placed in foster care, a permanency planning hearing shall be
22 conducted within 12 months of the date the minor entered foster
23 care, as defined in paragraph (4) of subdivision (d) of Section
24 727.4. Subsequent permanency planning hearings shall be
25 conducted periodically, but no less frequently than once every 12
26 months thereafter during the period of placement. It shall be the
27 duty of the probation officer to prepare a written social study report
28 including an updated case plan and a recommendation for a
29 permanent plan, pursuant to subdivision (c) of Section 706.5, and
30 submit the report to the court prior to each permanency planning
31 hearing, pursuant to subdivision (b) of Section 727.4.

32 (2) Prior to any permanency planning hearing involving a minor
33 in the physical custody of a community care facility or foster family
34 agency, the facility or agency may file with the court a report
35 containing its recommendations, in addition to the probation
36 officer's social study. Prior to any permanency planning hearing
37 involving the physical custody of a foster parent, relative caregiver,
38 preadoptive parent, or legal guardian, that person may present to
39 the court a report containing his or her recommendations. The

1 court shall consider all reports and recommendations filed pursuant
2 to this subdivision.

3 (3) If the minor has a continuing involvement with his or her
4 parents or legal guardians, the parents or legal guardians shall be
5 involved in the planning for a permanent placement. The court
6 order placing the minor in a permanent placement shall include a
7 specification of the nature and frequency of visiting arrangements
8 with the parents or legal guardians and, if any, the siblings.

9 (4) At each permanency planning hearing, the court shall order
10 a permanent plan for the minor, as described in subdivision (b).
11 The court shall also make findings, as described in subdivision (e)
12 of Section 727.2. In the case of a minor who has reached 16 years
13 of age or older, the court shall, in addition, determine the services
14 needed to assist the minor to make the transition from foster care
15 to successful adulthood. The court shall make all of these
16 determinations on a case-by-case basis and make reference to the
17 probation officer's report, the case plan, or other evidence relied
18 upon in making its decisions.

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

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

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

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

30 (b) At all permanency planning hearings, the court shall
31 determine the permanent plan for the minor. The court shall order
32 one of the following permanent plans, in order of priority:

33 (1) Return of the minor to the physical custody of the parent or
34 legal guardian. After considering the admissible and relevant
35 evidence, the court shall order the return of the minor to the
36 physical custody of his or her parent or legal guardian unless:

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

39 (B) The court finds, by a preponderance of the evidence, that
40 the return of the minor to his or her parent or legal guardian would

1 create a substantial risk of detriment to the safety, protection, or
2 physical or emotional well-being of the minor. The probation
3 department shall have the burden of establishing that detriment.
4 In making its determination, the court shall review and consider
5 the social study report and recommendations pursuant to Section
6 706.5, the report and recommendations of any child advocate
7 appointed for the minor in the case, and any other reports submitted
8 pursuant to paragraph (2) of subdivision (a), and shall consider
9 the efforts or progress, or both, demonstrated by the minor and
10 family and the extent to which the minor availed himself or herself
11 of the services provided.

12 (2) Order that the permanent plan for the minor will be to return
13 the minor to the physical custody of the parent or legal guardian,
14 order further reunification services to be provided to the minor
15 and his or her parent or legal guardian for a period not to exceed
16 six months and continue the case for up to six months for a
17 subsequent permanency planning hearing, provided that the
18 subsequent hearing shall occur within 18 months of the date the
19 minor was originally taken from the physical custody of his or her
20 parent or legal guardian. The court shall continue the case only if
21 it finds that there is a substantial probability that the minor will be
22 returned to the physical custody of his or her parent or legal
23 guardian and safely maintained in the home within the extended
24 period of time or that reasonable services have not been provided
25 to the parent or guardian. For purposes of this section, in order to
26 find that there is a substantial probability that the minor will be
27 returned to the physical custody of his or her parent or legal
28 guardian, the court shall be required to find that the minor and his
29 or her parent or legal guardian have demonstrated the capacity and
30 ability to complete the objectives of the case plan.

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

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

38 (3) Identify adoption as the permanent plan and order that a
39 hearing be held within 120 days, pursuant to the procedures
40 described in Section 727.31. The court shall only set a hearing

1 pursuant to Section 727.31 if there is clear and convincing evidence
2 that reasonable services have been provided or offered to the
3 parents. When the court sets a hearing pursuant to Section 727.31,
4 it shall order that an adoption assessment report be prepared,
5 pursuant to subdivision (b) of Section 727.31.

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

8 (5) Place the minor with a fit and willing relative. “Placement
9 with a fit and willing relative” means placing the minor with an
10 appropriate approved relative who is willing to provide a permanent
11 and stable home for the minor, but is unable or unwilling to become
12 the legal guardian. When a minor is placed with a fit and willing
13 relative, the court may authorize the relative to provide the same
14 legal consent for the minor’s medical, surgical, and dental care,
15 and education as the custodial parent of the minor.

16 (6) (A) If he or she is 16 years of age or older, place the minor
17 in another planned permanent living arrangement. For purposes
18 of this section, “planned permanent living arrangement” means
19 any permanent living arrangement described in Section 11402 that
20 is ordered by the court for a minor 16 years of age or older when
21 there is a compelling reason or reasons to determine that it is not
22 in the best interest of the minor to have any permanent plan listed
23 in paragraphs (1) to (5), inclusive. These plans include, but are not
24 limited to, placement in a specific, identified foster family home,
25 program, or facility on a permanent basis, or placement in a
26 transitional housing placement facility. When the court places a
27 minor in a planned permanent living arrangement, the court shall
28 specify the goal of the placement, which may include, but shall
29 not be limited to, return home, emancipation, guardianship, or
30 permanent placement with a relative.

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

37 (B) If the minor is under 16 years of age and the court finds by
38 clear and convincing evidence, based upon the evidence already
39 presented to it, that there is a compelling reason, as defined in
40 subdivision (c), for determining that a plan of termination of

1 parental rights and adoption is not in the best interest of the minor
2 as of the hearing date, the court shall order the minor to remain in
3 a foster care placement with a permanent plan of return home,
4 adoption, legal guardianship, or placement with a fit and willing
5 relative, as appropriate. The court shall make factual findings
6 identifying any barriers to achieving the permanent plan as of the
7 hearing date.

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

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

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

17 (B) The minor is 17 years of age or older and specifically
18 requests that transition to independent living with the identification
19 of a caring adult to serve as a lifelong connection be established
20 as his or her permanent plan. On and after January 1, 2012, this
21 includes a minor who requests that his or her transitional
22 independent living case plan include modification of his or her
23 jurisdiction to that of dependency jurisdiction pursuant to
24 subdivision (b) of Section 607.2 or subdivision (i) of Section 727.2,
25 or to that of transition jurisdiction pursuant to Section 450, in order
26 to be eligible as a nonminor dependent for the extended benefits
27 pursuant to Section 11403.

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

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

37 The probation department's recommendation that adoption is
38 not in the best interest of the minor shall be based on the present
39 family circumstances of the minor and shall not preclude a different

1 recommendation at a later date if the minor's family circumstances
2 change.

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

5 (3) Documentation by the probation department that the minor
6 is an unaccompanied refugee minor, or there are international legal
7 obligations or foreign policy reasons that would preclude
8 terminating parental rights.

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

13 (5) Documentation by the probation department that the minor
14 is living with a relative who is unable or unwilling to adopt the
15 minor because of exceptional circumstances that do not include
16 an unwillingness to accept legal or financial responsibility for the
17 minor, but who is willing to provide, and capable of providing,
18 the minor with a stable and permanent home environment, and the
19 removal of the minor from the physical custody of his or her
20 relative would be detrimental to the minor's emotional well-being.

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

27 (e) Any change in the permanent plan of a minor placed with a
28 fit and willing relative or in a planned permanent living
29 arrangement shall be made only by order of the court pursuant to
30 a petition filed in accordance with Section 778 or at a regularly
31 scheduled and noticed status review hearing or permanency
32 planning hearing. Any change in the permanent plan of a minor
33 placed in a guardianship shall be made only by order of the court
34 pursuant to a motion filed in accordance with Section 728.

35 *SEC. 4. Section 16002 of the Welfare and Institutions Code is*
36 *amended to read:*

37 16002. (a) (1) It is the intent of the Legislature to maintain
38 the continuity of the family unit, and ensure the preservation and
39 strengthening of the child's family ties by ensuring that when
40 siblings have been removed from their home, either as a group on

1 one occurrence or individually on separate occurrences, the siblings
2 will be placed in foster care together, unless it has been determined
3 that placement together is contrary to the safety or well-being of
4 any sibling. The Legislature recognizes that in order to ensure the
5 placement of a sibling group in the same foster care placement,
6 placement resources need to be expanded.

7 (2) It is also the intent of the Legislature to preserve and
8 strengthen a child's sibling relationship so that when a child has
9 been removed from his or her home and he or she has a sibling or
10 siblings who remain in the custody of a mutual parent subject to
11 the court's jurisdiction, the court has the authority to develop a
12 visitation plan for the siblings, unless it has been determined that
13 visitation is contrary to the safety or well-being of any sibling.

14 (b) The responsible local agency shall make a diligent effort in
15 all out-of-home placements of dependent children and wards in
16 foster care, including those with relatives, to place siblings together
17 in the same placement, and to develop and maintain sibling
18 relationships. If siblings are not placed together in the same home,
19 the social worker or probation officer shall explain why the siblings
20 are not placed together and what efforts he or she is making to
21 place the siblings together or why making those efforts would be
22 contrary to the safety and well-being of any of the siblings. When
23 placement of siblings together in the same home is not possible,
24 a diligent effort shall be made, and a case plan prepared, to provide
25 for ongoing and frequent interaction among siblings until family
26 reunification is achieved, or, if parental rights are terminated, as
27 part of developing the permanent plan for the child. If the court
28 determines by clear and convincing evidence that sibling interaction
29 is contrary to the safety and well-being of any of the siblings, the
30 reasons for the determination shall be noted in the court order, and
31 interaction shall be suspended.

32 (c) When there has been a judicial suspension of sibling
33 interaction, the reasons for the suspension shall be reviewed at
34 each periodic review hearing pursuant to Section 366 or 727.3. In
35 order for the suspension to continue, the court shall make a renewed
36 finding that sibling interaction is contrary to the safety or
37 well-being of either child. When the court determines that sibling
38 interaction can be safely resumed, that determination shall be noted
39 in the court order and the case plan shall be revised to provide for
40 sibling interaction.

1 (d) If the case plan for the child has provisions for sibling
2 interaction, the child, or his or her parent or legal guardian, shall
3 have the right to comment on those provisions. If a person wishes
4 to assert a sibling relationship with a dependent child or ward, he
5 or she may file a petition in the juvenile court having jurisdiction
6 over the dependent child pursuant to subdivision (b) of Section
7 388 or the ward in foster care pursuant to Section 778.

8 (e) If parental rights are terminated and the court orders a
9 dependent child or ward to be placed for adoption, the county
10 adoption agency or the State Department of Social Services shall
11 take all of the following steps to facilitate ongoing sibling contact,
12 except in those cases provided in subdivision (b) where the court
13 determines by clear and convincing evidence that sibling interaction
14 is contrary to the safety or well-being of the child:

15 (1) Include in training provided to prospective adoptive parents
16 information about the importance of sibling relationships to the
17 adopted child and counseling on methods for maintaining sibling
18 relationships.

19 (2) Provide prospective adoptive parents with information about
20 siblings of the child, except the address where the siblings of the
21 children reside. However, this address may be disclosed by court
22 order for good cause shown.

23 ~~(3) Encourage prospective adoptive parents to make a plan for~~
24 ~~facilitating postadoptive contact between the child who is the~~
25 ~~subject of a petition for adoption and any siblings of this child.~~

26 *(3) To the extent practicable, the county placing agency shall*
27 *convene a meeting with the child, the sibling or siblings of the*
28 *child, the prospective adoptive parent or parents, and a facilitator*
29 *for the purpose of deciding whether to voluntarily execute a*
30 *postadoption sibling contact agreement pursuant to Section 8616.5*
31 *of the Family Code. Counsel to the child and counsel to the siblings*
32 *who are dependents of the court shall be notified of, and may*
33 *attend, the meeting.*

34 (f) Information regarding sibling interaction, contact, or
35 visitation that has been authorized or ordered by the court shall be
36 provided to the foster parent, relative caretaker, or legal guardian
37 of the child as soon as possible after the court order is made, in
38 order to facilitate the interaction, contact, or visitation.

1 (g) As used in this section, “sibling” means a person related to
2 the identified child by blood, adoption, or affinity through a
3 common legal or biological parent.

4 (h) The court documentation on sibling placements required
5 under this section shall not require the modification of existing
6 court order forms until the Child Welfare Services/Case
7 Management System (CWS/CMS) is implemented on a statewide
8 basis.

9 ~~SEC. 3.~~

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