

AMENDED IN ASSEMBLY JUNE 22, 2016

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, 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 or wards.

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. *The bill would provide that the county placing agency is not required to convene a meeting to decide whether to voluntarily execute a postadoption sibling contact agreement if specified circumstances occur. The bill would authorize the child to petition the court for an order requiring the county placing agency to convene a meeting to decide whether to voluntarily execute a postadoption sibling contact agreement. The bill would provide that the meeting is not required to occur if the court determines by a preponderance of the evidence that a postadoption sibling contact agreement or a meeting for the purpose of deciding whether to voluntarily execute such an agreement is contrary to the safety and well-being of the child and notes the determination in the court order.* 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.

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This 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 executed by birth
10 relatives, including the birth parent or parents or any siblings, or
11 an Indian tribe, and adoptive parents. Nothing in this section
12 requires all of the listed parties to participate in the development
13 of a postadoption contact agreement in order for the agreement to
14 be 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
17 relatives, including the birth parent or parents or any siblings, or
18 an Indian tribe, and the child from voluntarily executing a written
19 agreement to permit continuing contact between the birth relatives,
20 including the birth parent or parents or any siblings, or an Indian
21 tribe, and the child if the agreement is found by the court to have
22 been executed voluntarily and to be in the best interests of the child
23 at the time the adoption petition is granted.

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

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

1 (B) Provisions for future contact between a birth parent or
2 parents or other birth relatives, including siblings, or both, and the
3 child or an adoptive parent, or both, and in cases governed by the
4 Indian Child Welfare Act, the child’s Indian tribe.

5 (C) Provisions for the sharing of information about the child in
6 the future.

7 (3) The terms of any postadoption contact agreement with birth
8 relatives, including siblings, other than the child’s birth parent or
9 parents shall be limited to the sharing of information about the
10 child, unless the child has a preexisting relationship with the birth
11 relative.

12 (c) At the time an adoption decree is entered pursuant to a
13 petition filed pursuant to Section 8714, 8714.5, 8802, 8912, or
14 9000, the court entering the decree may grant postadoption
15 privileges if an agreement for those privileges has been executed,
16 including agreements executed pursuant to subdivision (f) of
17 Section 8620. The hearing to grant the adoption petition and issue
18 an order of adoption may be continued as necessary to permit
19 parties who are in the process of negotiating a postadoption
20 agreement to reach a final agreement.

21 (d) The child who is the subject of the adoption petition shall
22 be considered a party to the postadoption contact agreement. The
23 written consent to the terms and conditions of the postadoption
24 contact agreement and any subsequent modifications of the
25 agreement by a child who is 12 years of age or older is a necessary
26 condition to the granting of privileges regarding visitation, contact,
27 or sharing of information about the child, unless the court finds
28 by a preponderance of the evidence that the agreement, as written,
29 is in the best interests of the child. Any child who has been found
30 to come within Section 300 of the Welfare and Institutions Code
31 or who is the subject of a petition for jurisdiction of the juvenile
32 court under Section 300 of the Welfare and Institutions Code shall
33 be represented by an attorney for purposes of consent to the
34 postadoption contact agreement.

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

37 (1) After the adoption petition has been granted by the court,
38 the adoption cannot be set aside due to the failure of an adopting
39 parent, a birth parent, a birth relative, including a sibling, an Indian

1 tribe, or the child to follow the terms of this agreement or a later
2 change to this agreement.

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

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

11 (f) Upon the granting of the adoption petition and the issuing
12 of the order of adoption of a child who is a dependent of the
13 juvenile court, juvenile court dependency jurisdiction shall be
14 terminated. Enforcement of the postadoption contact agreement
15 shall be under the continuing jurisdiction of the court granting the
16 petition of adoption. The court may not order compliance with the
17 agreement absent a finding that the party seeking the enforcement
18 participated, or attempted to participate, in good faith in mediation
19 or other appropriate dispute resolution proceedings regarding the
20 conflict, prior to the filing of the enforcement action, and that the
21 enforcement is in the best interests of the child. Documentary
22 evidence or offers of proof may serve as the basis for the court's
23 decision regarding enforcement. No testimony or evidentiary
24 hearing shall be required. The court shall not order further
25 investigation or evaluation by any public or private agency or
26 individual absent a finding by clear and convincing evidence that
27 the best interests of the child may be protected or advanced only
28 by that inquiry and that the inquiry will not disturb the stability of
29 the child's home to the detriment of the child.

30 (g) The court may not award monetary damages as a result of
31 the filing of the civil action pursuant to subdivision (e).

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

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

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

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

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

5 (C) The party seeking the termination or modification has
6 participated, or attempted to participate, in good faith in mediation
7 or other appropriate dispute resolution proceedings prior to seeking
8 court approval of the proposed termination or modification.

9 Documentary evidence or offers of proof may serve as the basis
10 for the court's decision. No testimony or evidentiary hearing shall
11 be required. The court shall not order further investigation or
12 evaluation by any public or private agency or individual absent a
13 finding by clear and convincing evidence that the best interests of
14 the child may be protected or advanced only by that inquiry and
15 that the inquiry will not disturb the stability of the child's home
16 to the detriment of the child.

17 (i) All costs and fees of mediation or other appropriate dispute
18 resolution proceedings shall be borne by each party, excluding the
19 child. All costs and fees of litigation shall be borne by the party
20 filing the action to modify or enforce the agreement when no party
21 has been found by the court as failing to comply with an existing
22 postadoption contact agreement. Otherwise, a party, other than the
23 child, found by the court as failing to comply without good cause
24 with an existing agreement shall bear all the costs and fees of
25 litigation.

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

29 (k) The court shall not set aside a decree of adoption, rescind a
30 relinquishment, or modify an order to terminate parental rights or
31 any other prior court order because of the failure of a birth parent,
32 adoptive parent, birth relative, including a sibling, an Indian tribe,
33 or the child to comply with any or all of the original terms of, or
34 subsequent modifications to, the postadoption contact agreement,
35 except as follows:

36 (1) Prior to issuing the order of adoption, in an adoption
37 involving an Indian child, the court may, upon a petition of the
38 birth parent, birth relative, including a sibling, or an Indian tribe,
39 order the parties to engage in family mediation services for the
40 purpose of reaching a postadoption contact agreement if the

1 prospective adoptive parent fails to negotiate in good faith to
2 execute a postadoption contact agreement, after having agreed to
3 enter into negotiations, provided that the failure of the parties to
4 reach an agreement is not in and of itself proof of bad faith.

5 (2) Prior to issuing the order of adoption, if the parties fail to
6 negotiate in good faith to execute a postadoption contact agreement
7 during the negotiations entered into pursuant to, and in accordance
8 with, paragraph (1), the court may modify prior orders or issue
9 new orders as necessary to ensure the best interest of the Indian
10 child is met, including, but not limited to, requiring parties to
11 engage in further family mediation services for the purpose of
12 reaching a postadoption contact agreement, initiating guardianship
13 proceeding in lieu of adoption, or authorizing a change of adoptive
14 placement for the child.

15 (l) As used in this section, “sibling” means a person related to
16 the identified child by blood, adoption, or affinity through a
17 common legal or biological parent.

18 SEC. 2. Section 366.29 of the Welfare and Institutions Code
19 is amended to read:

20 366.29. (a) When a court, pursuant to Section 366.26, orders
21 that a dependent child be placed for adoption, nothing in the
22 adoption laws of this state shall be construed to prevent the
23 prospective adoptive parent or parents of the child from expressing
24 a willingness to facilitate postadoption sibling contact. With the
25 consent of the adoptive parent or parents, the court may include
26 in the final adoption order provisions for the adoptive parent or
27 parents to facilitate postadoption sibling contact. In no event shall
28 the continuing validity of the adoption be contingent upon the
29 postadoption contact, nor shall the ability of the adoptive parent
30 or parents and the child to change residence within or outside the
31 state be impaired by the order for contact.

32 (b) At the time of consideration of an adoption petition, the
33 court shall inquire into the status of the development of a voluntary
34 postadoption sibling contact agreement pursuant to subdivision
35 (e) of Section 16002.

36 (c) If, following entry of an order for sibling contact pursuant
37 to subdivision (a), it is determined by the adoptive parent or parents
38 that sibling contact poses a threat to the health, safety, or well-being
39 of the adopted child, the adoptive parent or parents may terminate
40 the sibling contact, provided that the adoptive parent or parents

1 shall submit written notification to the court within 10 days after
2 terminating the contact, which notification shall specify to the
3 court the reasons why the health, safety, or well-being of the
4 adopted child would be threatened by continued sibling contact.

5 (d) Upon the granting of the adoption petition and the issuing
6 of the order of adoption of a child who is a dependent of the
7 juvenile court, the jurisdiction of the juvenile court with respect
8 to the dependency proceedings of that child shall be terminated.
9 Nonetheless, the court granting the petition of adoption shall
10 maintain jurisdiction over the child for enforcement of the
11 postadoption contact agreement. The court may only order
12 compliance with the postadoption contact agreement upon a finding
13 of both of the following:

14 (1) The party seeking the enforcement participated, in good
15 faith, in mediation or other appropriate alternative dispute
16 resolution proceedings regarding the conflict, prior to the filing of
17 the enforcement action.

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

19 SEC. 3. Section 727.3 of the Welfare and Institutions Code is
20 amended to read:

21 727.3. The purpose of this section is to provide a means to
22 monitor the safety and well-being of every minor in foster care
23 who has been declared a ward of the juvenile court pursuant to
24 Section 601 or 602 and to ensure that everything reasonably
25 possible is done to facilitate the safe and early return of the minor
26 to his or her own home or to establish an alternative permanent
27 plan for the minor.

28 (a) (1) For every minor declared a ward and ordered to be
29 placed in foster care, a permanency planning hearing shall be
30 conducted within 12 months of the date the minor entered foster
31 care, as defined in paragraph (4) of subdivision (d) of Section
32 727.4. Subsequent permanency planning hearings shall be
33 conducted periodically, but no less frequently than once every 12
34 months thereafter during the period of placement. It shall be the
35 duty of the probation officer to prepare a written social study report
36 including an updated case plan and a recommendation for a
37 permanent plan, pursuant to subdivision (c) of Section 706.5, and
38 submit the report to the court prior to each permanency planning
39 hearing, pursuant to subdivision (b) of Section 727.4.

1 (2) Prior to any permanency planning hearing involving a minor
2 in the physical custody of a community care facility or foster family
3 agency, the facility or agency may file with the court a report
4 containing its recommendations, in addition to the probation
5 officer's social study. Prior to any permanency planning hearing
6 involving the physical custody of a foster parent, relative caregiver,
7 preadoptive parent, or legal guardian, that person may present to
8 the court a report containing his or her recommendations. The
9 court shall consider all reports and recommendations filed pursuant
10 to this subdivision.

11 (3) If the minor has a continuing involvement with his or her
12 parents or legal guardians, the parents or legal guardians shall be
13 involved in the planning for a permanent placement. The court
14 order placing the minor in a permanent placement shall include a
15 specification of the nature and frequency of visiting arrangements
16 with the parents or legal guardians and, if any, the siblings.

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

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

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

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

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

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

1 (1) Return of the minor to the physical custody of the parent or
2 legal guardian. After considering the admissible and relevant
3 evidence, the court shall order the return of the minor to the
4 physical custody of his or her parent or legal guardian unless:
5 (A) Reunification services were not offered, pursuant to
6 subdivision (b) of Section 727.2.
7 (B) The court finds, by a preponderance of the evidence, that
8 the return of the minor to his or her parent or legal guardian would
9 create a substantial risk of detriment to the safety, protection, or
10 physical or emotional well-being of the minor. The probation
11 department shall have the burden of establishing that detriment.
12 In making its determination, the court shall review and consider
13 the social study report and recommendations pursuant to Section
14 706.5, the report and recommendations of any child advocate
15 appointed for the minor in the case, and any other reports submitted
16 pursuant to paragraph (2) of subdivision (a), and shall consider
17 the efforts or progress, or both, demonstrated by the minor and
18 family and the extent to which the minor availed himself or herself
19 of the services provided.
20 (2) Order that the permanent plan for the minor will be to return
21 the minor to the physical custody of the parent or legal guardian,
22 order further reunification services to be provided to the minor
23 and his or her parent or legal guardian for a period not to exceed
24 six months and continue the case for up to six months for a
25 subsequent permanency planning hearing, provided that the
26 subsequent hearing shall occur within 18 months of the date the
27 minor was originally taken from the physical custody of his or her
28 parent or legal guardian. The court shall continue the case only if
29 it finds that there is a substantial probability that the minor will be
30 returned to the physical custody of his or her parent or legal
31 guardian and safely maintained in the home within the extended
32 period of time or that reasonable services have not been provided
33 to the parent or guardian. For purposes of this section, in order to
34 find that there is a substantial probability that the minor will be
35 returned to the physical custody of his or her parent or legal
36 guardian, the court shall be required to find that the minor and his
37 or her parent or legal guardian have demonstrated the capacity and
38 ability to complete the objectives of the case plan.

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

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

8 (3) Identify adoption as the permanent plan and order that a
9 hearing be held within 120 days, pursuant to the procedures
10 described in Section 727.31. The court shall only set a hearing
11 pursuant to Section 727.31 if there is clear and convincing evidence
12 that reasonable services have been provided or offered to the
13 parents. When the court sets a hearing pursuant to Section 727.31,
14 it shall order that an adoption assessment report be prepared,
15 pursuant to subdivision (b) of Section 727.31.

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

18 (5) Place the minor with a fit and willing relative. “Placement
19 with a fit and willing relative” means placing the minor with an
20 appropriate approved relative who is willing to provide a permanent
21 and stable home for the minor, but is unable or unwilling to become
22 the legal guardian. When a minor is placed with a fit and willing
23 relative, the court may authorize the relative to provide the same
24 legal consent for the minor’s medical, surgical, and dental care,
25 and education as the custodial parent of the minor.

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

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

7 (B) If the minor is under 16 years of age and the court finds by
8 clear and convincing evidence, based upon the evidence already
9 presented to it, that there is a compelling reason, as defined in
10 subdivision (c), for determining that a plan of termination of
11 parental rights and adoption is not in the best interest of the minor
12 as of the hearing date, the court shall order the minor to remain in
13 a foster care placement with a permanent plan of return home,
14 adoption, legal guardianship, or placement with a fit and willing
15 relative, as appropriate. The court shall make factual findings
16 identifying any barriers to achieving the permanent plan as of the
17 hearing date.

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

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

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

27 (B) The minor is 17 years of age or older and specifically
28 requests that transition to independent living with the identification
29 of a caring adult to serve as a lifelong connection be established
30 as his or her permanent plan. On and after January 1, 2012, this
31 includes a minor who requests that his or her transitional
32 independent living case plan include modification of his or her
33 jurisdiction to that of dependency jurisdiction pursuant to
34 subdivision (b) of Section 607.2 or subdivision (i) of Section 727.2,
35 or to that of transition jurisdiction pursuant to Section 450, in order
36 to be eligible as a nonminor dependent for the extended benefits
37 pursuant to Section 11403.

38 (C) The parent or guardian and the minor have a significant
39 bond, but the parent or guardian is unable to care for the minor
40 because of an emotional or physical disability, and the minor's

1 caregiver has committed to raising the minor to the age of majority
2 and facilitating visitation with the disabled parent or guardian.

3 (D) The minor agrees to continued placement in a residential
4 treatment facility that provides services specifically designed to
5 address the minor’s treatment needs, and the minor’s needs could
6 not be served by a less restrictive placement.

7 The probation department’s recommendation that adoption is
8 not in the best interest of the minor shall be based on the present
9 family circumstances of the minor and shall not preclude a different
10 recommendation at a later date if the minor’s family circumstances
11 change.

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

14 (3) Documentation by the probation department that the minor
15 is an unaccompanied refugee minor, or there are international legal
16 obligations or foreign policy reasons that would preclude
17 terminating parental rights.

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

22 (5) Documentation by the probation department that the minor
23 is living with a relative who is unable or unwilling to adopt the
24 minor because of exceptional circumstances that do not include
25 an unwillingness to accept legal or financial responsibility for the
26 minor, but who is willing to provide, and capable of providing,
27 the minor with a stable and permanent home environment, and the
28 removal of the minor from the physical custody of his or her
29 relative would be detrimental to the minor’s emotional well-being.

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

36 (e) Any change in the permanent plan of a minor placed with a
37 fit and willing relative or in a planned permanent living
38 arrangement shall be made only by order of the court pursuant to
39 a petition filed in accordance with Section 778 or at a regularly
40 scheduled and noticed status review hearing or permanency

1 planning hearing. Any change in the permanent plan of a minor
2 placed in a guardianship shall be made only by order of the court
3 pursuant to a motion filed in accordance with Section 728.

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

6 16002. (a) (1) It is the intent of the Legislature to maintain
7 the continuity of the family unit, and ensure the preservation and
8 strengthening of the child's family ties by ensuring that when
9 siblings have been removed from their home, either as a group on
10 one occurrence or individually on separate occurrences, the siblings
11 will be placed in foster care together, unless it has been determined
12 that placement together is contrary to the safety or well-being of
13 any sibling. The Legislature recognizes that in order to ensure the
14 placement of a sibling group in the same foster care placement,
15 placement resources need to be expanded.

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

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

1 (c) When there has been a judicial suspension of sibling
2 interaction, the reasons for the suspension shall be reviewed at
3 each periodic review hearing pursuant to Section 366 or 727.3. In
4 order for the suspension to continue, the court shall make a renewed
5 finding that sibling interaction is contrary to the safety or
6 well-being of either child. When the court determines that sibling
7 interaction can be safely resumed, that determination shall be noted
8 in the court order and the case plan shall be revised to provide for
9 sibling interaction.

10 (d) If the case plan for the child has provisions for sibling
11 interaction, the child, or his or her parent or legal guardian, shall
12 have the right to comment on those provisions. If a person wishes
13 to assert a sibling relationship with a dependent child or ward, he
14 or she may file a petition in the juvenile court having jurisdiction
15 over the dependent child pursuant to subdivision (b) of Section
16 388 or the ward in foster care pursuant to Section 778.

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

24 (1) Include in training provided to prospective adoptive parents
25 information about the importance of sibling relationships to the
26 adopted child and counseling on methods for maintaining sibling
27 relationships.

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

32 (3) (A) To the extent practicable, the county placing agency
33 shall convene a meeting with the child, the sibling or siblings of
34 the child, the prospective adoptive parent or parents, and a
35 facilitator for the purpose of deciding whether to voluntarily
36 execute a postadoption sibling contact agreement pursuant to
37 Section 8616.5 of the Family Code. ~~Counsel Code~~ *on a date after*
38 *termination of parental rights and prior to finalization of the*
39 *adoption. The county placing agency may comply with the*
40 *requirements of this paragraph by allowing a nonprofit*

1 organization authorized to provide permanency placement and
2 postadoption mediation for adoptive and birth families to facilitate
3 the meeting and develop the agreement.

4 (B) The county placing agency is not required to convene a
5 meeting to decide whether to voluntarily execute a postadoption
6 sibling contact agreement pursuant to Section 8616.5 of the Family
7 Code in either of the following circumstances:

8 (i) The county placing agency determines that such a meeting
9 or postadoption sibling contact agreement would be contrary to
10 the safety and well-being of the child.

11 (ii) The child requests that a meeting shall not occur.

12 (C) The child may petition the court for an order requiring the
13 county placing agency to convene a meeting to decide whether to
14 voluntarily execute a postadoption sibling contact agreement
15 pursuant to Section 8616.5 of the Family Code. If the court
16 determines by a preponderance of the evidence that a postadoption
17 sibling contact agreement or a meeting for the purpose of deciding
18 whether to voluntarily execute such an agreement is contrary to
19 the safety and well-being of the child, the reasons for the
20 determination shall be noted in the court order, and the meeting
21 is not required to occur.

22 (D) Counsel to the child and counsel to the siblings who are
23 dependents of the court shall be notified of, and may attend, ~~the~~
24 ~~meeting.~~ both the meeting and the hearing described in this
25 paragraph.

26 (E) This paragraph shall not require attendance by a child,
27 sibling, or other party at a meeting to decide whether to voluntarily
28 execute a postadoption sibling contact agreement pursuant to
29 Section 8616.5 of the Family Code if the child, sibling, or other
30 party cannot be located or does not wish to attend the meeting.
31 This paragraph shall not prohibit a county placing agency from
32 convening a meeting if not all of the parties are secured to attend.

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

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

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

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

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