

Introduced by Senator Mitchell
(Principal coauthor: Assembly Member Cooley)

February 18, 2016

An act to amend Section 8712 of the Family Code, to amend Section 1522 of the Health and Safety Code, and to amend Sections 309, 361.4, and 16519.5 of the Welfare and Institution Code, relating to child placement.

LEGISLATIVE COUNSEL'S DIGEST

SB 1201, as introduced, Mitchell. Placement of children: criminal records check.

Existing law requires the State Department of Social Services, county adoption agency, or licensed adoption agency to require each person who files an application for adoption to be fingerprinted and to secure from an appropriate law enforcement agency a criminal records check to determine whether the person has ever been convicted of a crime other than a minor traffic violation. Existing law requires the criminal record, if any, to be taken into consideration when evaluating the prospective adoptive parent, as specified. Existing law prohibits the department, county adoption agency, or licensed adoption agency from giving final approval for an adoptive placement in a home in which the prospective adoptive parent or an adult living in the home has been convicted of a felony conviction for child abuse or neglect, spousal abuse, crimes against a child, or a crime involving violence, including rape, sexual assault, and homicide.

Existing law requires the county welfare department to initiate an assessment of a relative's or nonrelative extended family member's suitability, before placing a child in that person's home, including a consideration of the results of a criminal records check, as specified.

Existing law requires the court or county social worker placing a child to cause a criminal records check to be conducted whenever a child may be placed in the home of a relative, or the home of any prospective guardian or other person who is not a licensed or certified foster parent. Existing law also requires the State Department of Social Services to implement a resource family approval process, as specified, that includes a criminal records clearance of all adults residing in, or regularly present in, the home.

Existing law generally prohibits a child from being placed in an adoptive or foster home if a person in the home has been convicted of certain crimes, but authorizes the Director of Social Services to grant an exemption from disqualification, allowing a child to be placed in a home despite the conviction of a person in the home for certain crimes that would make the home ineligible for the placement of the child, as specified.

This bill would prohibit the department, county adoption agency, or licensed adoption agency from giving final approval for an adoptive placement in a home in which the prospective adoptive parent or an adult living in the home has been convicted of a crime that is classified as a violent felony for purposes of various provisions of the Penal Code.

This bill would also prohibit a child from being placed in the home of a relative, nonrelative, foster, or resource family if the person has been convicted of a felony conviction for specified crimes, including a crime against a child, or a crime involving violence, as defined. The bill would require the county social worker and the court to consider the criminal history in determining whether the placement is in the best interests of the child if the criminal records check indicates that the person has been convicted of any other crime, as specified. The bill would also limit the exception allowing the placement of a child in a home if the director has granted an exemption, as specified.

By imposing a higher level of service on county employees, the bill would impose a state-mandated local program.

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 8712 of the Family Code is amended to
2 read:

3 8712. (a) The department, county adoption agency, or licensed
4 adoption agency shall require each person who files an application
5 for adoption to be fingerprinted and shall secure from an
6 appropriate law enforcement agency any criminal record of that
7 person to determine whether the person has ever been convicted
8 of a crime other than a minor traffic violation. The department,
9 county adoption agency, or licensed adoption agency may also
10 secure the person's full criminal record, if any, with the exception
11 of any convictions for which relief has been granted pursuant to
12 Section 1203.49 of the Penal Code. ~~Any~~ A federal-level criminal
13 offender record requests to the Department of Justice shall be
14 submitted with fingerprint images and related information required
15 by the Department of Justice for the purposes of obtaining
16 information as to the existence and content of a record of an
17 out-of-state or federal conviction or arrest of a person or
18 information regarding any out-of-state or federal crimes or arrests
19 for which the Department of Justice establishes that the person is
20 free on bail, or on his or her own recognizance pending trial or
21 appeal. The Department of Justice shall forward to the Federal
22 Bureau of Investigation any requests for federal summary criminal
23 history information received pursuant to this section. The
24 Department of Justice shall review the information returned from
25 the Federal Bureau of Investigation and shall compile and
26 disseminate a response to the department, county adoption agency,
27 or licensed adoption agency.

28 (b) Notwithstanding subdivision (c), the criminal record, if any,
29 shall be taken into consideration when evaluating the prospective
30 adoptive parent, and an assessment of the effects of any criminal
31 history on the ability of the prospective adoptive parent to provide
32 adequate and proper care and guidance to the child shall be
33 included in the report to the court.

34 (c) ~~(1)~~—The department, county adoption agency, or licensed
35 adoption agency shall not give final approval for an adoptive
36 placement in any home in which the prospective adoptive parent
37 or any adult living in the prospective adoptive home has either of
38 the following:

1 ~~(A)~~
 2 ~~(1)~~ A felony conviction for child abuse or neglect, spousal abuse,
 3 crimes against a child, including child pornography, or for a crime
 4 involving violence, including rape, sexual assault, or homicide,
 5 but not including other physical assault and battery. For purposes
 6 of this subdivision, ~~crimes involving violence means those violent~~
 7 ~~crimes contained in clause (i) of subparagraph (A), and~~
 8 ~~subparagraph (B), of paragraph (1) of subdivision (g) of Section~~
 9 ~~1522 of the Health and Safety Code. a “crime involving violence”~~
 10 ~~means an offense listed in subdivision (c) of Section 667.5 of the~~
 11 ~~Penal Code.~~

12 ~~(B)~~
 13 (2) A felony conviction that occurred within the last five years
 14 for physical assault, battery, or a drug- or alcohol-related offense.
 15 ~~(2) This subdivision shall become operative on October 1, 2008,~~
 16 ~~and shall remain operative only to the extent that compliance with~~
 17 ~~its provisions is required by federal law as a condition of receiving~~
 18 ~~funding under Title IV-E of the federal Social Security Act (42~~
 19 ~~U.S.C. Sec. 670 et seq.).~~

20 (d) Any fee charged by a law enforcement agency for
 21 fingerprinting or for checking or obtaining the criminal record of
 22 the applicant shall be paid by the applicant. The department, county
 23 adoption agency, or licensed adoption agency may defer, waive,
 24 or reduce the fee when its payment would cause economic hardship
 25 to prospective adoptive parents detrimental to the welfare of the
 26 adopted child, when the child has been in the foster care of the
 27 prospective adoptive parents for at least one year, or if necessary
 28 for the placement of a special-needs child.

29 SEC. 2. Section 1522 of the Health and Safety Code is amended
 30 to read:

31 1522. The Legislature recognizes the need to generate timely
 32 and accurate positive fingerprint identification of applicants as a
 33 condition of issuing licenses, permits, or certificates of approval
 34 for persons to operate or provide direct care services in a
 35 community care facility, foster family home, or a certified family
 36 home of a licensed foster family agency. Therefore, the Legislature
 37 supports the use of the fingerprint live-scan technology, as
 38 identified in the long-range plan of the Department of Justice for
 39 fully automating the processing of fingerprints and other data by
 40 the year 1999, otherwise known as the California Crime

1 Information Intelligence System (CAL-CII), to be used for
2 applicant fingerprints. It is the intent of the Legislature in enacting
3 this section to require the fingerprints of those individuals whose
4 contact with community care clients may pose a risk to the clients'
5 health and safety. An individual shall be required to obtain either
6 a criminal record clearance or a criminal record exemption from
7 the State Department of Social Services before his or her initial
8 presence in a community care facility or certified family home.

9 (a) (1) Before and, as applicable, subsequent to issuing a license
10 or special permit to any person or persons to operate or manage a
11 community care facility, the State Department of Social Services
12 shall secure from an appropriate law enforcement agency a criminal
13 record to determine whether the applicant or any other person
14 specified in subdivision (b) has ever been convicted of a crime
15 other than a minor traffic violation or arrested for any crime
16 specified in Section 290 of the Penal Code, or for violating Section
17 245, 273ab, or 273.5 of the Penal Code, subdivision (b) of Section
18 273a of the Penal Code, or, prior to January 1, 1994, paragraph
19 (2) of Section 273a of the Penal Code, or for any crime for which
20 the department is prohibited from granting a criminal record
21 exemption pursuant to subdivision (g).

22 (2) The criminal history information shall include the full
23 criminal record, if any, of those persons, and subsequent arrest
24 information pursuant to Section 11105.2 of the Penal Code.

25 (3) Except during the 2003–04 to the 2016–17 fiscal years,
26 inclusive, neither the Department of Justice nor the State
27 Department of Social Services may charge a fee for the
28 fingerprinting of an applicant for a license or special permit to
29 operate a facility providing nonmedical board, room, and care for
30 six or less children or for obtaining a criminal record of the
31 applicant pursuant to this section.

32 (4) The following shall apply to the criminal record information:

33 (A) If the State Department of Social Services finds that the
34 applicant, or any other person specified in subdivision (b), has
35 been convicted of a crime other than a minor traffic violation, the
36 application shall be denied, unless the director grants an exemption
37 pursuant to subdivision (g).

38 (B) If the State Department of Social Services finds that the
39 applicant, or any other person specified in subdivision (b), is
40 awaiting trial for a crime other than a minor traffic violation, the

1 State Department of Social Services may cease processing the
2 criminal record information until the conclusion of the trial.

3 (C) If no criminal record information has been recorded, the
4 Department of Justice shall provide the applicant and the State
5 Department of Social Services with a statement of that fact.

6 (D) If the State Department of Social Services finds after
7 licensure that the licensee, or any other person specified in
8 paragraph (1) of subdivision (b), has been convicted of a crime
9 other than a minor traffic violation, the license may be revoked,
10 unless the director grants an exemption pursuant to subdivision
11 (g).

12 (E) An applicant and any other person specified in subdivision
13 (b) shall submit fingerprint images and related information to the
14 Department of Justice for the purpose of searching the criminal
15 records of the Federal Bureau of Investigation, in addition to the
16 criminal records search required by this subdivision. If an applicant
17 and all other persons described in subdivision (b) meet all of the
18 conditions for licensure, except receipt of the Federal Bureau of
19 Investigation's criminal offender record information search
20 response for the applicant or any of the persons described in
21 subdivision (b), the department may issue a license if the applicant
22 and each person described in subdivision (b) has signed and
23 submitted a statement that he or she has never been convicted of
24 a crime in the United States, other than a traffic infraction, as
25 prescribed in paragraph (1) of subdivision (a) of Section 42001 of
26 the Vehicle Code. If, after licensure, or the issuance of a certificate
27 of approval of a certified family home by a foster family agency,
28 the department determines that the licensee or any other person
29 specified in subdivision (b) has a criminal record, the department
30 may revoke the license, or require a foster family agency to revoke
31 the certificate of approval, pursuant to Section 1550. The
32 department may also suspend the license or require a foster family
33 agency to suspend the certificate of approval pending an
34 administrative hearing pursuant to Section 1550.5.

35 (F) The State Department of Social Services shall develop
36 procedures to provide the individual's state and federal criminal
37 history information with the written notification of his or her
38 exemption denial or revocation based on the criminal record.
39 Receipt of the criminal history information shall be optional on
40 the part of the individual, as set forth in the agency's procedures.

1 The procedure shall protect the confidentiality and privacy of the
2 individual's record, and the criminal history information shall not
3 be made available to the employer.

4 (G) Notwithstanding any other law, the department is authorized
5 to provide an individual with a copy of his or her state or federal
6 level criminal offender record information search response as
7 provided to that department by the Department of Justice if the
8 department has denied a criminal background clearance based on
9 this information and the individual makes a written request to the
10 department for a copy specifying an address to which it is to be
11 sent. The state or federal level criminal offender record information
12 search response shall not be modified or altered from its form or
13 content as provided by the Department of Justice and shall be
14 provided to the address specified by the individual in his or her
15 written request. The department shall retain a copy of the
16 individual's written request and the response and date provided.

17 (b) (1) In addition to the applicant, this section shall be
18 applicable to criminal record clearances and exemptions for the
19 following persons:

20 (A) Adults responsible for administration or direct supervision
21 of staff.

22 (B) Any person, other than a client, residing in the facility or
23 certified family home.

24 (C) Any person who provides client assistance in dressing,
25 grooming, bathing, or personal hygiene. Any nurse assistant or
26 home health aide meeting the requirements of Section 1338.5 or
27 1736.6, respectively, who is not employed, retained, or contracted
28 by the licensee, and who has been certified or recertified on or
29 after July 1, 1998, shall be deemed to meet the criminal record
30 clearance requirements of this section. A certified nurse assistant
31 and certified home health aide who will be providing client
32 assistance and who falls under this exemption shall provide one
33 copy of his or her current certification, prior to providing care, to
34 the community care facility. The facility shall maintain the copy
35 of the certification on file as long as care is being provided by the
36 certified nurse assistant or certified home health aide at the facility
37 or certified family home. Nothing in this paragraph restricts the
38 right of the department to exclude a certified nurse assistant or
39 certified home health aide from a licensed community care facility
40 or certified family home pursuant to Section 1558.

- 1 (D) Any staff person, volunteer, or employee who has contact
- 2 with the clients.
- 3 (E) If the applicant is a firm, partnership, association, or
- 4 corporation, the chief executive officer or other person serving in
- 5 like capacity.
- 6 (F) Additional officers of the governing body of the applicant,
- 7 or other persons with a financial interest in the applicant, as
- 8 determined necessary by the department by regulation. The criteria
- 9 used in the development of these regulations shall be based on the
- 10 person’s capability to exercise substantial influence over the
- 11 operation of the facility.
- 12 (2) The following persons are exempt from the requirements
- 13 applicable under paragraph (1):
- 14 (A) A medical professional as defined in department regulations
- 15 who holds a valid license or certification from the person’s
- 16 governing California medical care regulatory entity and who is
- 17 not employed, retained, or contracted by the licensee if all of the
- 18 following apply:
- 19 (i) The criminal record of the person has been cleared as a
- 20 condition of licensure or certification by the person’s governing
- 21 California medical care regulatory entity.
- 22 (ii) The person is providing time-limited specialized clinical
- 23 care or services.
- 24 (iii) The person is providing care or services within the person’s
- 25 scope of practice.
- 26 (iv) The person is not a community care facility licensee or an
- 27 employee of the facility.
- 28 (B) A third-party repair person or similar retained contractor if
- 29 all of the following apply:
- 30 (i) The person is hired for a defined, time-limited job.
- 31 (ii) The person is not left alone with clients.
- 32 (iii) When clients are present in the room in which the repair
- 33 person or contractor is working, a staff person who has a criminal
- 34 record clearance or exemption is also present.
- 35 (C) Employees of a licensed home health agency and other
- 36 members of licensed hospice interdisciplinary teams who have a
- 37 contract with a client or resident of the facility and are in the
- 38 facility at the request of that client or resident’s legal
- 39 decisionmaker. The exemption does not apply to a person who is
- 40 a community care facility licensee or an employee of the facility.

1 (D) Clergy and other spiritual caregivers who are performing
2 services in common areas of the community care facility or who
3 are advising an individual client at the request of, or with the
4 permission of, the client or legal decisionmaker, are exempt from
5 fingerprint and criminal background check requirements imposed
6 by community care licensing. This exemption does not apply to a
7 person who is a community care licensee or employee of the
8 facility.

9 (E) Members of fraternal, service, or similar organizations who
10 conduct group activities for clients if all of the following apply:

- 11 (i) Members are not left alone with clients.
- 12 (ii) Members do not transport clients off the facility premises.
- 13 (iii) The same organization does not conduct group activities
14 for clients more often than defined by the department's regulations.

15 (3) In addition to the exemptions in paragraph (2), the following
16 persons in foster family homes, certified family homes, and small
17 family homes are exempt from the requirements applicable under
18 paragraph (1):

19 (A) Adult friends and family of the licensed or certified foster
20 parent, who come into the home to visit for a length of time no
21 longer than defined by the department in regulations, provided
22 that the adult friends and family of the licensee or certified parent
23 are not left alone with the foster children. However, the licensee
24 or certified parent, acting as a reasonable and prudent parent, as
25 defined in paragraph (2) of subdivision (a) of Section 362.04 of
26 the Welfare and Institutions Code, may allow his or her adult
27 friends and family to provide short-term care to the foster child
28 and act as an appropriate occasional short-term babysitter for the
29 child.

30 (B) Parents of a foster child's friend when the foster child is
31 visiting the friend's home and the friend, licensed or certified foster
32 parent, or both are also present. However, the licensee or certified
33 parent, acting as a reasonable and prudent parent, may allow the
34 parent of the foster child's friend to act as an appropriate short-term
35 babysitter for the child without the friend being present.

36 (C) Individuals who are engaged by any licensed or certified
37 foster parent to provide short-term care to the child for periods not
38 to exceed 24 hours. Caregivers shall use a reasonable and prudent
39 parent standard in selecting appropriate individuals to act as
40 appropriate occasional short-term babysitters.

1 (4) In addition to the exemptions specified in paragraph (2), the
2 following persons in adult day care and adult day support centers
3 are exempt from the requirements applicable under paragraph (1):

4 (A) Unless contraindicated by the client's individualized
5 program plan (IPP) or needs and service plan, a spouse, significant
6 other, relative, or close friend of a client, or an attendant or a
7 facilitator for a client with a developmental disability if the
8 attendant or facilitator is not employed, retained, or contracted by
9 the licensee. This exemption applies only if the person is visiting
10 the client or providing direct care and supervision to the client.

11 (B) A volunteer if all of the following applies:

12 (i) The volunteer is supervised by the licensee or a facility
13 employee with a criminal record clearance or exemption.

14 (ii) The volunteer is never left alone with clients.

15 (iii) The volunteer does not provide any client assistance with
16 dressing, grooming, bathing, or personal hygiene other than
17 washing of hands.

18 (5) (A) In addition to the exemptions specified in paragraph
19 (2), the following persons in adult residential and social
20 rehabilitation facilities, unless contraindicated by the client's
21 individualized program plan (IPP) or needs and services plan, are
22 exempt from the requirements applicable under paragraph (1): a
23 spouse, significant other, relative, or close friend of a client, or an
24 attendant or a facilitator for a client with a developmental disability
25 if the attendant or facilitator is not employed, retained, or
26 contracted by the licensee. This exemption applies only if the
27 person is visiting the client or providing direct care and supervision
28 to that client.

29 (B) Nothing in this subdivision shall prevent a licensee from
30 requiring a criminal record clearance of any individual exempt
31 from the requirements of this section, provided that the individual
32 has client contact.

33 (6) Any person similar to those described in this subdivision,
34 as defined by the department in regulations.

35 (c) (1) Subsequent to initial licensure, a person specified in
36 subdivision (b) who is not exempted from fingerprinting shall
37 obtain either a criminal record clearance or an exemption from
38 disqualification pursuant to subdivision (g) from the State
39 Department of Social Services prior to employment, residence, or
40 initial presence in the facility. A person specified in subdivision

1 (b) who is not exempt from fingerprinting shall be fingerprinted
2 and shall sign a declaration under penalty of perjury regarding any
3 prior criminal convictions. The licensee shall submit fingerprint
4 images and related information to the Department of Justice and
5 the Federal Bureau of Investigation, through the Department of
6 Justice, for a state and federal level criminal offender record
7 information search, or comply with paragraph (1) of subdivision
8 (h). These fingerprint images and related information shall be sent
9 by electronic transmission in a manner approved by the State
10 Department of Social Services and the Department of Justice for
11 the purpose of obtaining a permanent set of fingerprints, and shall
12 be submitted to the Department of Justice by the licensee. A
13 licensee's failure to prohibit the employment, residence, or initial
14 presence of a person specified in subdivision (b) who is not exempt
15 from fingerprinting and who has not received either a criminal
16 record clearance or an exemption from disqualification pursuant
17 to subdivision (g) or to comply with paragraph (1) of subdivision
18 (h), as required in this section, shall result in the citation of a
19 deficiency and the immediate assessment of civil penalties in the
20 amount of one hundred dollars (\$100) per violation per day for a
21 maximum of five days, unless the violation is a second or
22 subsequent violation within a 12-month period in which case the
23 civil penalties shall be in the amount of one hundred dollars (\$100)
24 per violation for a maximum of 30 days, and shall be grounds for
25 disciplining the licensee pursuant to Section 1550. The department
26 may assess civil penalties for continued violations as permitted by
27 Section 1548. The fingerprint images and related information shall
28 then be submitted to the Department of Justice for processing.
29 Upon request of the licensee, who shall enclose a self-addressed
30 stamped postcard for this purpose, the Department of Justice shall
31 verify receipt of the fingerprints.

32 (2) Within 14 calendar days of the receipt of the fingerprint
33 images, the Department of Justice shall notify the State Department
34 of Social Services of the criminal record information, as provided
35 for in subdivision (a). If no criminal record information has been
36 recorded, the Department of Justice shall provide the licensee and
37 the State Department of Social Services with a statement of that
38 fact within 14 calendar days of receipt of the fingerprint images.
39 Documentation of the individual's clearance or exemption from
40 disqualification shall be maintained by the licensee and be available

1 for inspection. If new fingerprint images are required for
2 processing, the Department of Justice shall, within 14 calendar
3 days from the date of receipt of the fingerprints, notify the licensee
4 that the fingerprints were illegible, the Department of Justice shall
5 notify the State Department of Social Services, as required by
6 Section 1522.04, and shall also notify the licensee by mail, within
7 14 days of electronic transmission of the fingerprints to the
8 Department of Justice, if the person has no criminal history
9 recorded. A violation of the regulations adopted pursuant to Section
10 1522.04 shall result in the citation of a deficiency and an immediate
11 assessment of civil penalties in the amount of one hundred dollars
12 (\$100) per violation per day for a maximum of five days, unless
13 the violation is a second or subsequent violation within a 12-month
14 period in which case the civil penalties shall be in the amount of
15 one hundred dollars (\$100) per violation for a maximum of 30
16 days, and shall be grounds for disciplining the licensee pursuant
17 to Section 1550. The department may assess civil penalties for
18 continued violations as permitted by Section 1548.

19 (3) Except for persons specified in subdivision (b) who are
20 exempt from fingerprinting, the licensee shall endeavor to ascertain
21 the previous employment history of persons required to be
22 fingerprinted. If it is determined by the State Department of Social
23 Services, on the basis of the fingerprint images and related
24 information submitted to the Department of Justice, that subsequent
25 to obtaining a criminal record clearance or exemption from
26 disqualification pursuant to subdivision (g), the person has been
27 convicted of, or is awaiting trial for, a sex offense against a minor,
28 or has been convicted for an offense specified in Section 243.4,
29 273a, 273ab, 273d, 273g, or 368 of the Penal Code, or a felony,
30 the State Department of Social Services shall notify the licensee
31 to act immediately to terminate the person's employment, remove
32 the person from the community care facility, or bar the person
33 from entering the community care facility. The State Department
34 of Social Services may subsequently grant an exemption from
35 disqualification pursuant to subdivision (g). If the conviction or
36 arrest was for another crime, except a minor traffic violation, the
37 licensee shall, upon notification by the State Department of Social
38 Services, act immediately to either (A) terminate the person's
39 employment, remove the person from the community care facility,
40 or bar the person from entering the community care facility; or

1 (B) seek an exemption from disqualification pursuant to subdivision
2 (g). The State Department of Social Services shall determine if
3 the person shall be allowed to remain in the facility until a decision
4 on the exemption from disqualification is rendered. A licensee's
5 failure to comply with the department's prohibition of employment,
6 contact with clients, or presence in the facility as required by this
7 paragraph shall result in a citation of deficiency and an immediate
8 assessment of civil penalties in the amount of one hundred dollars
9 (\$100) per violation per day and shall be grounds for disciplining
10 the licensee pursuant to Section 1550.

11 (4) The department may issue an exemption from
12 disqualification on its own motion pursuant to subdivision (g) if
13 the person's criminal history indicates that the person is of good
14 character based on the age, seriousness, and frequency of the
15 conviction or convictions. The department, in consultation with
16 interested parties, shall develop regulations to establish the criteria
17 to grant an exemption from disqualification pursuant to this
18 paragraph.

19 (5) Concurrently with notifying the licensee pursuant to
20 paragraph (3), the department shall notify the affected individual
21 of his or her right to seek an exemption from disqualification
22 pursuant to subdivision (g). The individual may seek an exemption
23 from disqualification only if the licensee terminates the person's
24 employment or removes the person from the facility after receiving
25 notice from the department pursuant to paragraph (3).

26 (d) (1) Before and, as applicable, subsequent to issuing a license
27 or certificate of approval to any person or persons to operate a
28 foster family home or certified family home as described in Section
29 1506, the State Department of Social Services or other approving
30 authority shall secure California and Federal Bureau of
31 Investigation criminal history information to determine whether
32 the applicant or any person specified in subdivision (b) who is not
33 exempt from fingerprinting has ever been convicted of a crime
34 other than a minor traffic violation or arrested for any crime
35 specified in subdivision (c) of Section 290 of the Penal Code, for
36 violating Section 245, 273ab, or 273.5, subdivision (b) of Section
37 273a, or, prior to January 1, 1994, paragraph (2) of Section 273a,
38 of the Penal Code, or for any crime for which the department is
39 prohibited from granting a criminal record exemption pursuant to
40 subdivision (g). The State Department of Social Services or other

1 approving authority shall not issue a license or certificate of
2 approval to any foster family home or certified family home
3 applicant who has not obtained both a California and Federal
4 Bureau of Investigation criminal record clearance or exemption
5 from disqualification pursuant to subdivision (g).

6 (2) The criminal history information shall include the full
7 criminal record, if any, of those persons.

8 (3) Neither the Department of Justice nor the State Department
9 of Social Services may charge a fee for the fingerprinting of an
10 applicant for a license, special permit, or certificate of approval
11 described in this subdivision. The record, if any, shall be taken
12 into consideration when evaluating a prospective applicant.

13 (4) The following shall apply to the criminal record information:

14 (A) If the applicant or other persons specified in subdivision
15 (b) who are not exempt from fingerprinting have convictions that
16 would make the applicant's home unfit as a foster family home or
17 a certified family home, the license, special permit, certificate of
18 approval, or presence shall be denied.

19 (B) If the State Department of Social Services finds that the
20 applicant, or any person specified in subdivision (b) who is not
21 exempt from fingerprinting is awaiting trial for a crime other than
22 a minor traffic violation, the State Department of Social Services
23 or other approving authority may cease processing the criminal
24 record information until the conclusion of the trial.

25 (C) For purposes of this subdivision, a criminal record clearance
26 provided under Section 8712 of the Family Code may be used by
27 the department or other approving agency.

28 (D) To the same extent required for federal funding, an applicant
29 for a foster family home license or for certification as a family
30 home, and any other person specified in subdivision (b) who is
31 not exempt from fingerprinting, shall submit a set of fingerprint
32 images and related information to the Department of Justice and
33 the Federal Bureau of Investigation, through the Department of
34 Justice, for a state and federal level criminal offender record
35 information search, in addition to the criminal records search
36 required by subdivision (a).

37 (5) Any person specified in this subdivision shall, as a part of
38 the application, be fingerprinted and sign a declaration under
39 penalty of perjury regarding any prior criminal convictions or
40 arrests for any crime against a child, spousal or cohabitant abuse,

1 or any crime for which the department cannot grant an exemption
2 if the person was convicted and shall submit these fingerprints to
3 the licensing agency or other approving authority.

4 (6) (A) Subsequent to initial licensure or certification, a person
5 specified in subdivision (b) who is not exempt from fingerprinting
6 shall obtain both a California and Federal Bureau of Investigation
7 criminal record clearance, or an exemption from disqualification
8 pursuant to subdivision (g), prior to employment, residence, or
9 initial presence in the foster family or certified family home. A
10 foster family home licensee or foster family agency shall submit
11 fingerprint images and related information of persons specified in
12 subdivision (b) who are not exempt from fingerprinting to the
13 Department of Justice and the Federal Bureau of Investigation,
14 through the Department of Justice, for a state and federal level
15 criminal offender record information search, or to comply with
16 paragraph (1) of subdivision (h). A foster family home licensee's
17 or a foster family agency's failure to either prohibit the
18 employment, residence, or initial presence of a person specified
19 in subdivision (b) who is not exempt from fingerprinting and who
20 has not received either a criminal record clearance or an exemption
21 from disqualification pursuant to subdivision (g), or comply with
22 paragraph (1) of subdivision (h), as required in this section, shall
23 result in a citation of a deficiency, and the immediate civil penalties
24 of one hundred dollars (\$100) per violation per day for a maximum
25 of five days, unless the violation is a second or subsequent violation
26 within a 12-month period in which case the civil penalties shall
27 be in the amount of one hundred dollars (\$100) per violation for
28 a maximum of 30 days, and shall be grounds for disciplining the
29 licensee pursuant to Section 1550. A violation of the regulation
30 adopted pursuant to Section 1522.04 shall result in the citation of
31 a deficiency and an immediate assessment of civil penalties in the
32 amount of one hundred dollars (\$100) per violation per day for a
33 maximum of five days, unless the violation is a second or
34 subsequent violation within a 12-month period in which case the
35 civil penalties shall be in the amount of one hundred dollars (\$100)
36 per violation for a maximum of 30 days, and shall be grounds for
37 disciplining the foster family home licensee or the foster family
38 agency pursuant to Section 1550. The State Department of Social
39 Services may assess penalties for continued violations, as permitted

1 by Section 1548. The fingerprint images shall then be submitted
2 to the Department of Justice for processing.

3 (B) Upon request of the licensee, who shall enclose a
4 self-addressed envelope for this purpose, the Department of Justice
5 shall verify receipt of the fingerprints. Within five working days
6 of the receipt of the criminal record or information regarding
7 criminal convictions from the Department of Justice, the
8 department shall notify the applicant of any criminal arrests or
9 convictions. If no arrests or convictions are recorded, the
10 Department of Justice shall provide the foster family home licensee
11 or the foster family agency with a statement of that fact concurrent
12 with providing the information to the State Department of Social
13 Services.

14 (7) If the State Department of Social Services or other approving
15 authority finds that the applicant, or any other person specified in
16 subdivision (b) who is not exempt from fingerprinting, has been
17 convicted of a crime other than a minor traffic violation, the
18 application or presence shall be denied, unless the director grants
19 an exemption from disqualification pursuant to subdivision (g).

20 (8) If the State Department of Social Services or other approving
21 authority finds after licensure or the granting of the certificate of
22 approval that the licensee, certified foster parent, or any other
23 person specified in subdivision (b) who is not exempt from
24 fingerprinting, has been convicted of a crime other than a minor
25 traffic violation, the license or certificate of approval may be
26 revoked by the department or the foster family agency, whichever
27 is applicable, unless the director grants an exemption from
28 disqualification pursuant to subdivision (g). A licensee's failure
29 to comply with the department's prohibition of employment,
30 contact with clients, or presence in the facility as required by
31 paragraph (3) of subdivision (c) shall be grounds for disciplining
32 the licensee pursuant to Section 1550.

33 (e) (1) The State Department of Social Services shall not use
34 a record of arrest to deny, revoke, or terminate any application,
35 license, employment, or residence unless the department
36 investigates the incident and secures evidence, whether or not
37 related to the incident of arrest, that is admissible in an
38 administrative hearing to establish conduct by the person that may
39 pose a risk to the health and safety of any person who is or may
40 become a client.

1 (2) The department shall not issue a criminal record clearance
2 to a person who has been arrested for any crime specified in Section
3 290 of the Penal Code, or for violating Section 245, 273ab, or
4 273.5, or subdivision (b) of Section 273a, of the Penal Code, or,
5 prior to January 1, 1994, paragraph (2) of Section 273a of the Penal
6 Code, or for any crime for which the department is prohibited from
7 granting a criminal record exemption pursuant to subdivision (g),
8 prior to the department's completion of an investigation pursuant
9 to paragraph (1).

10 (3) The State Department of Social Services is authorized to
11 obtain any arrest or conviction records or reports from any law
12 enforcement agency as necessary to the performance of its duties
13 to inspect, license, and investigate community care facilities and
14 individuals associated with a community care facility.

15 (f) (1) For purposes of this section or any other provision of
16 this chapter, a conviction means a plea or verdict of guilty or a
17 conviction following a plea of nolo contendere. Any action that
18 the State Department of Social Services is permitted to take
19 following the establishment of a conviction may be taken when
20 the time for appeal has elapsed, when the judgment of conviction
21 has been affirmed on appeal, or when an order granting probation
22 is made suspending the imposition of sentence, notwithstanding
23 a subsequent order pursuant to Sections 1203.4 and 1203.4a of the
24 Penal Code permitting the person to withdraw his or her plea of
25 guilty and to enter a plea of not guilty, or setting aside the verdict
26 of guilty, or dismissing the accusation, information, or indictment.
27 For purposes of this section or any other provision of this chapter,
28 the record of a conviction, or a copy thereof certified by the clerk
29 of the court or by a judge of the court in which the conviction
30 occurred, shall be conclusive evidence of the conviction. For
31 purposes of this section or any other provision of this chapter, the
32 arrest disposition report certified by the Department of Justice, or
33 documents admissible in a criminal action pursuant to Section
34 969b of the Penal Code, shall be prima facie evidence of the
35 conviction, notwithstanding any other law prohibiting the
36 admission of these documents in a civil or administrative action.

37 (2) For purposes of this section or any other provision of this
38 chapter, the department shall consider criminal convictions from
39 another state or federal court as if the criminal offense was
40 committed in this state.

1 (g) (1) ~~After~~ *Except as otherwise provided in this paragraph*
2 *with respect to applicants who are foster care providers, after*
3 review of the record, the director may grant an exemption from
4 disqualification for a license or special permit as specified in
5 paragraph (4) of subdivision (a), or for a license, special permit,
6 or certificate of approval as specified in paragraphs (4), (7), and
7 (8) of subdivision (d), or for employment, residence, or presence
8 in a community care facility as specified in paragraphs (3), (4),
9 and (5) of subdivision (c), if the director has substantial and
10 convincing evidence to support a reasonable belief that the
11 applicant and the person convicted of the crime, if other than the
12 applicant, are of good character as to justify issuance of the license
13 or special permit or granting an exemption for purposes of
14 subdivision (c). Except as otherwise provided in this subdivision,
15 an exemption shall not be granted pursuant to this subdivision if
16 the conviction was for any of the following offenses:

17 (A) (i) An offense specified in Section 220, 243.4, or 264.1,
18 subdivision (a) of Section 273a, or, prior to January 1, 1994,
19 paragraph (1) of Section 273a, Section 273ab, 273d, 288, or 289,
20 subdivision (c) of Section 290, or Section 368, of the Penal Code,
21 or was a conviction of another crime against an individual specified
22 in subdivision (c) of Section 667.5 of the Penal Code.

23 (ii) Notwithstanding clause (i), the director may grant an
24 exemption regarding the conviction for an offense described in
25 paragraph (1), (2), (7), or (8) of subdivision (c) of Section 667.5
26 of the Penal Code, if the employee or prospective employee has
27 been rehabilitated as provided in Section 4852.03 of the Penal
28 Code, has maintained the conduct required in Section 4852.05 of
29 the Penal Code for at least 10 years, and has the recommendation
30 of the district attorney representing the employee's county of
31 residence, or if the employee or prospective employee has received
32 a certificate of rehabilitation pursuant to Chapter 3.5 (commencing
33 with Section 4852.01) of Title 6 of Part 3 of the Penal Code. This
34 clause shall not apply to foster care providers, including relative
35 caregivers, nonrelated extended family members, or any other
36 person specified in subdivision (b), in those homes where the
37 individual has been convicted of an offense described in paragraph
38 (1) of subdivision (c) of Section 667.5 of the Penal Code.

39 (B) A felony offense specified in Section 729 of the Business
40 and Professions Code or Section 206 or 215, subdivision (a) of

1 Section 347, subdivision (b) of Section 417, or subdivision (a) of
2 Section 451 of the Penal Code.

3 ~~(C) Under no circumstances shall an exemption be granted~~
4 ~~pursuant to this subdivision to any foster~~

5 (C) (i) *For a foster care provider applicant applicant, an*
6 *exemption shall not be granted if that applicant, or any other person*
7 *specified in subdivision (b) in those homes, the applicant's home,*
8 *has a felony conviction for either of the following offenses:*

9 (i)

10 (I) A felony conviction for child abuse or neglect, spousal abuse,
11 crimes against a child, including child pornography, or for a crime
12 involving violence, including rape, sexual assault, or homicide,
13 but not including other physical assault and battery. For purposes
14 of this subparagraph, a crime involving violence means a violent
15 crime specified in clause (i) of subparagraph (A), or subparagraph
16 (B); *an offense described in paragraph (1) of subdivision (c) of*
17 *Section 667.5 of the Penal Code.*

18 (ii)

19 (II) A felony conviction, within the last five years, for physical
20 assault, battery, or a drug- or alcohol-related offense.

21 (iii) ~~This subparagraph shall not apply to licenses or approvals~~
22 ~~wherein a caregiver was granted an exemption to a criminal~~
23 ~~conviction described in clause (i) or (ii) prior to the enactment of~~
24 ~~this subparagraph.~~

25 (iv) ~~This subparagraph shall remain operative only to the extent~~
26 ~~that compliance with its provisions is required by federal law as~~
27 ~~a condition for receiving funding under Title IV-E of the federal~~
28 ~~Social Security Act (42 U.S.C. Sec. 670 et seq.).~~

29 (ii) *If a foster care provider applicant or any other person*
30 *specified in subdivision (b) in the applicant's home has been*
31 *convicted of any crime other than those listed in clause (i), the*
32 *department shall determine whether to grant an exemption, in light*
33 *of all relevant circumstances, including, but not limited to, the*
34 *following:*

35 (I) *The nature of the crime or crimes.*

36 (II) *The period of time since the crime was committed.*

37 (III) *The number of offenses.*

38 (IV) *Circumstances surrounding the commission of the crime*
39 *indicating the likelihood of future criminal activity.*

1 (V) *Activities since conviction, including employment,*
2 *participation in therapy, education, or treatment.*

3 (VI) *Whether the person convicted has successfully completed*
4 *probation or parole, obtained a certificate of rehabilitation, or*
5 *been granted a pardon by the Governor.*

6 (VII) *Any character references or other evidence submitted by*
7 *the applicant.*

8 (2) The department shall not prohibit a person from being
9 employed or having contact with clients in a facility on the basis
10 of a denied criminal record exemption request or arrest information
11 unless the department complies with the requirements of Section
12 1558.

13 (h) (1) For purposes of compliance with this section, the
14 department may permit an individual to transfer a current criminal
15 record clearance, as defined in subdivision (a), from one facility
16 to another, as long as the criminal record clearance has been
17 processed through a state licensing district office, and is being
18 transferred to another facility licensed by a state licensing district
19 office. The request shall be in writing to the State Department of
20 Social Services, and shall include a copy of the person’s driver’s
21 license or valid identification card issued by the Department of
22 Motor Vehicles, or a valid photo identification issued by another
23 state or the United States government if the person is not a
24 California resident. Upon request of the licensee, who shall enclose
25 a self-addressed envelope for this purpose, the State Department
26 of Social Services shall verify whether the individual has a
27 clearance that can be transferred.

28 (2) The State Department of Social Services shall hold criminal
29 record clearances in its active files for a minimum of three years
30 after an employee is no longer employed at a licensed facility in
31 order for the criminal record clearance to be transferred.

32 (3) The following shall apply to a criminal record clearance or
33 exemption from the department or a county office with
34 department-delegated licensing authority:

35 (A) A county office with department-delegated licensing
36 authority may accept a clearance or exemption from the
37 department.

38 (B) The department may accept a clearance or exemption from
39 any county office with department-delegated licensing authority.

1 (C) A county office with department-delegated licensing
2 authority may accept a clearance or exemption from any other
3 county office with department-delegated licensing authority.

4 (4) With respect to notifications issued by the Department of
5 Justice pursuant to Section 11105.2 of the Penal Code concerning
6 an individual whose criminal record clearance was originally
7 processed by the department or a county office with
8 department-delegated licensing authority, all of the following shall
9 apply:

10 (A) The Department of Justice shall process a request from the
11 department or a county office with department-delegated licensing
12 authority to receive the notice only if all of the following conditions
13 are met:

14 (i) The request shall be submitted to the Department of Justice
15 by the agency to be substituted to receive the notification.

16 (ii) The request shall be for the same applicant type as the type
17 for which the original clearance was obtained.

18 (iii) The request shall contain all prescribed data elements and
19 format protocols pursuant to a written agreement between the
20 department and the Department of Justice.

21 (B) (i) On or before January 7, 2005, the department shall notify
22 the Department of Justice of all county offices that have
23 department-delegated licensing authority.

24 (ii) The department shall notify the Department of Justice within
25 15 calendar days of the date on which a new county office receives
26 department-delegated licensing authority or a county's delegated
27 licensing authority is rescinded.

28 (C) The Department of Justice shall charge the department, a
29 county office with department-delegated licensing authority, or a
30 county child welfare agency with criminal record clearance and
31 exemption authority, a fee for each time a request to substitute the
32 recipient agency is received for purposes of this paragraph. This
33 fee shall not exceed the cost of providing the service.

34 (5) (A) A county child welfare agency with authority to secure
35 clearances pursuant to Section 16504.5 of the Welfare and
36 Institutions Code and to grant exemptions pursuant to Section
37 361.4 of the Welfare and Institutions Code may accept a clearance
38 or exemption from another county with criminal record and
39 exemption authority pursuant to these sections.

1 (B) With respect to notifications issued by the Department of
2 Justice pursuant to Section 11105.2 of the Penal Code concerning
3 an individual whose criminal record clearance was originally
4 processed by a county child welfare agency with criminal record
5 clearance and exemption authority, the Department of Justice shall
6 process a request from a county child welfare agency with criminal
7 record and exemption authority to receive the notice only if all of
8 the following conditions are met:

9 (i) The request shall be submitted to the Department of Justice
10 by the agency to be substituted to receive the notification.

11 (ii) The request shall be for the same applicant type as the type
12 for which the original clearance was obtained.

13 (iii) The request shall contain all prescribed data elements and
14 format protocols pursuant to a written agreement between the State
15 Department of Social Services and the Department of Justice.

16 (i) The full criminal record obtained for purposes of this section
17 may be used by the department or by a licensed adoption agency
18 as a clearance required for adoption purposes.

19 (j) If a licensee or facility is required by law to deny employment
20 or to terminate employment of any employee based on written
21 notification from the state department that the employee has a prior
22 criminal conviction or is determined unsuitable for employment
23 under Section 1558, the licensee or facility shall not incur civil
24 liability or unemployment insurance liability as a result of that
25 denial or termination.

26 (k) The State Department of Social Services may charge a fee
27 for the costs of processing electronic fingerprint images and related
28 information.

29 (l) Amendments to this section made in the 1999 portion of the
30 1999–2000 Regular Session shall be implemented commencing
31 60 days after the effective date of the act amending this section in
32 the 1999 portion of the 1999–2000 Regular Session, except that
33 those provisions for the submission of fingerprints for searching
34 the records of the Federal Bureau of Investigation shall be
35 implemented 90 days after the effective date of that act.

36 SEC. 3. Section 309 of the Welfare and Institutions Code is
37 amended to read:

38 309. (a) Upon delivery to the social worker of a child who has
39 been taken into temporary custody under this article, the social
40 worker shall immediately investigate the circumstances of the child

1 and the facts surrounding the child's being taken into custody and
2 attempt to maintain the child with the child's family through the
3 provision of services. The social worker shall immediately release
4 the child to the custody of the child's parent, guardian, or
5 responsible relative, regardless of the parent's, guardian's, or
6 relative's immigration status, unless one or more of the following
7 conditions exist:

8 (1) The child has no parent, guardian, or responsible relative;
9 or the child's parent, guardian, or responsible relative is not willing
10 to provide care for the child.

11 (2) Continued detention of the child is a matter of immediate
12 and urgent necessity for the protection of the child and there are
13 no reasonable means by which the child can be protected in his or
14 her home or the home of a responsible relative.

15 (3) There is substantial evidence that a parent, guardian, or
16 custodian of the child is likely to flee the jurisdiction of the court.

17 (4) The child has left a placement in which he or she was placed
18 by the juvenile court.

19 (5) The parent or other person having lawful custody of the
20 child voluntarily surrendered physical custody of the child pursuant
21 to Section 1255.7 of the Health and Safety Code and did not
22 reclaim the child within the 14-day period specified in subdivision
23 (e) of that section.

24 (b) In any case in which there is reasonable cause for believing
25 that a child who is under the care of a physician and surgeon or a
26 hospital, clinic, or other medical facility and cannot be immediately
27 moved and is a person described in Section 300, the child shall be
28 deemed to have been taken into temporary custody and delivered
29 to the social worker for the purposes of this chapter while the child
30 is at the office of the physician and surgeon or the medical facility.

31 (c) If the child is not released to his or her parent or guardian,
32 the child shall be deemed detained for purposes of this chapter.

33 (d) (1) If an able and willing relative, as defined in Section 319,
34 or an able and willing nonrelative extended family member, as
35 defined in Section 362.7, is available and requests temporary
36 placement of the child pending the detention hearing, or after the
37 detention hearing and pending the dispositional hearing conducted
38 pursuant to Section 358, the county welfare department shall
39 initiate an assessment of the relative's or nonrelative extended
40 family member's suitability, which shall include an in-home

1 inspection to assess the safety of the home and the ability of the
2 relative or nonrelative extended family member to care for the
3 child's needs, and a consideration of the results of a criminal
4 records check conducted pursuant to subdivision (a) of Section
5 16504.5 and a check of allegations of prior child abuse or neglect
6 concerning the relative or nonrelative extended family member
7 and other adults in the home. A relative's identification card from
8 a foreign consulate or foreign passport shall be considered a valid
9 form of identification for conducting a criminal records check and
10 fingerprint clearance check under this subdivision. Upon
11 completion of this assessment, the child may be placed in the
12 assessed home. For purposes of this paragraph, and except for the
13 criminal records check conducted pursuant to subdivision (a) of
14 Section 16504.5, the standards used to determine suitability shall
15 be the same standards set forth in the regulations for the licensing
16 of foster family homes.

17 (2) Immediately following the placement of a child in the home
18 of a relative or a nonrelative extended family member, the county
19 welfare department shall evaluate and approve or deny the home
20 for purposes of AFDC-FC eligibility pursuant to Section 11402.
21 The standards used to evaluate and grant or deny approval of the
22 home of the relative and of the home of a nonrelative extended
23 family member, as described in Section 362.7, shall be the same
24 standards set forth in regulations for the licensing of foster family
25 homes which prescribe standards of safety and sanitation for the
26 physical plant and standards for basic personal care, supervision,
27 and services provided by the caregiver.

28 (3) To the extent allowed by federal law, as a condition of
29 receiving funding under Title IV-E of the federal Social Security
30 Act (42 U.S.C. Sec. 670 et seq.), if a relative or nonrelative
31 extended family member meets all other conditions for approval,
32 except for the receipt of the Federal Bureau of Investigation's
33 criminal history information for the relative or nonrelative extended
34 family member, and other adults in the home, as indicated, the
35 county welfare department may approve the home and document
36 that approval, if the relative or nonrelative extended family
37 member, and each adult in the home, has signed and submitted a
38 statement that he or she has never been convicted of a crime in the
39 United States, other than a traffic infraction as defined in paragraph
40 (1) of subdivision (a) of Section 42001 of the Vehicle Code. If,

1 after the approval has been granted, the department determines
2 that the relative or nonrelative extended family member or other
3 adult in the home has a criminal record, the approval may be
4 terminated.

5 (4) ~~If the criminal records check indicates that the person has~~
6 ~~been convicted of a crime for which the Director of Social Services~~
7 ~~cannot grant an exemption under Section 1522 of the Health and~~
8 ~~Safety Code, the child shall not be placed in the home. If the~~
9 ~~criminal records check indicates that the person has been convicted~~
10 ~~of a crime for which the Director of Social Services may grant an~~
11 ~~exemption under Section 1522 of the Health and Safety Code, the~~
12 ~~child shall not be placed in the home unless a criminal records~~
13 ~~exemption has been granted by the county based on substantial~~
14 ~~and convincing evidence to support a reasonable belief that the~~
15 ~~person with the criminal conviction is of such good character as~~
16 ~~to justify the placement and not present a risk of harm to the child.~~
17 *any of the following crimes, the child shall not be placed in the*
18 *home:*

19 (A) *A felony conviction for child abuse or neglect, spousal abuse,*
20 *or a crime against a child, including child pornography, or for a*
21 *crime involving violence, including rape, sexual assault, or*
22 *homicide, but not including other physical assault and battery.*
23 *For purposes of this subdivision, a “crime involving violence”*
24 *means an offense listed in subdivision (c) of Section 667.5 of the*
25 *Penal Code.*

26 (B) *A felony conviction for physical assault, battery, or a drug-*
27 *or alcohol-related offense within the last five years.*

28 (5) *If the criminal records check indicates that the person has*
29 *been convicted of any crime other than a crime described in*
30 *paragraph (4), the county social worker and the court shall*
31 *consider the criminal history in determining whether the placement*
32 *is in the best interests of the child.*

33 (e) (1) If the child is removed, the social worker shall conduct,
34 within 30 days, an investigation in order to identify and locate all
35 grandparents, parents of a sibling of the child, if the parent has
36 legal custody of the sibling, adult siblings, and other adult relatives
37 of the child, as defined in paragraph (2) of subdivision (f) of
38 Section 319, including any other adult relatives suggested by the
39 parents. As used in this section, “sibling” means a person related
40 to the identified child by blood, adoption, or affinity through a

1 common legal or biological parent. The social worker shall provide
2 to all adult relatives who are located, except when that relative's
3 history of family or domestic violence makes notification
4 inappropriate, within 30 days of removal of the child, written
5 notification and shall also, whenever appropriate, provide oral
6 notification, in person or by telephone, of all the following
7 information:

8 (A) The child has been removed from the custody of his or her
9 parent or parents, or his or her guardians.

10 (B) An explanation of the various options to participate in the
11 care and placement of the child and support for the child's family,
12 including any options that may be lost by failing to respond. The
13 notice shall provide information about providing care for the child
14 while the family receives reunification services with the goal of
15 returning the child to the parent or guardian, how to become a
16 foster family home or approved relative or nonrelative extended
17 family member as defined in Section 362.7, and additional services
18 and support that are available in out-of-home placements. The
19 notice shall also include information regarding the Kin-GAP
20 Program (Article 4.5 (commencing with Section 11360) of Chapter
21 2 of Part 3 of Division 9), the CalWORKs program for approved
22 relative caregivers (Chapter 2 (commencing with Section 11200)
23 of Part 3 of Division 9), adoption, and adoption assistance (Chapter
24 2.1 (commencing with Section 16115) of Part 4 of Division 9), as
25 well as other options for contact with the child, including, but not
26 limited to, visitation. The State Department of Social Services, in
27 consultation with the County Welfare Directors Association of
28 California and other interested stakeholders, shall develop the
29 written notice.

30 (2) The social worker shall also provide the adult relatives
31 notified pursuant to paragraph (1) with a relative information form
32 to provide information to the social worker and the court regarding
33 the needs of the child. The form shall include a provision whereby
34 the relative may request the permission of the court to address the
35 court, if the relative so chooses. The Judicial Council, in
36 consultation with the State Department of Social Services and the
37 County Welfare Directors Association of California, shall develop
38 the form.

39 (3) The social worker shall use due diligence in investigating
40 the names and locations of the relatives pursuant to paragraph (1),

1 including, but not limited to, asking the child in an age-appropriate
2 manner about relatives important to the child, consistent with the
3 child’s best interest, and obtaining information regarding the
4 location of the child’s adult relatives. Each county welfare
5 department shall create and make public a procedure by which
6 relatives of a child who has been removed from his or her parents
7 or guardians may identify themselves to the county welfare
8 department and be provided with the notices required by paragraphs
9 (1) and (2).

10 SEC. 4. Section 361.4 of the Welfare and Institutions Code is
11 amended to read:

12 361.4. (a) Prior to placing a child in the home of a relative, or
13 the home of any prospective guardian or other person who is not
14 a licensed or certified foster parent, the county social worker shall
15 visit the home to ascertain the appropriateness of the placement.

16 (b) (1) Whenever a child may be placed in the home of a
17 relative, or the home of any prospective guardian or other person
18 who is not a licensed or certified foster parent, the court or county
19 social worker placing the child shall cause a state-level criminal
20 records check to be conducted by an appropriate government
21 agency through the California Law Enforcement
22 Telecommunications System (CLETS) pursuant to Section 16504.5.
23 The criminal records check shall be conducted with regard to all
24 persons over 18 years of age living in the home, and on any other
25 person over 18 years of age, other than professionals providing
26 professional services to the child, known to the placing entity who
27 may have significant contact with the child, including any person
28 who has a familial or intimate relationship with any person living
29 in the home. A criminal records check may be conducted pursuant
30 to this section on any person over 14 years of age living in the
31 home who the county social worker believes may have a criminal
32 record. Within 10 calendar days following the criminal records
33 check conducted through the California Law Enforcement
34 Telecommunications System, the social worker shall ensure that
35 a fingerprint clearance check of the relative and any other person
36 whose criminal record was obtained pursuant to this subdivision
37 is initiated through the Department of Justice to ensure the accuracy
38 of the criminal records check conducted through the California
39 Law Enforcement Telecommunications System and shall review
40 the results of any criminal records check to assess the safety of the

1 home. The Department of Justice shall forward fingerprint requests
2 for federal-level criminal history information to the Federal Bureau
3 of Investigation pursuant to this section.

4 (2) An identification card from a foreign consulate or foreign
5 passport shall be considered a valid form of identification for
6 conducting a criminal records check and fingerprint clearance
7 check under this subdivision and under subdivision (c).

8 (c) Whenever a child may be placed in the home of a relative,
9 or a prospective guardian or other person who is not a licensed or
10 certified foster parent, the county social worker shall cause a check
11 of the Child Abuse Central Index pursuant to subdivision (a) of
12 Section 11170 of the Penal Code to be requested from the
13 Department of Justice. The Child Abuse Central Index check shall
14 be conducted on all persons over 18 years of age living in the
15 home. For any application received on or after January 1, 2008, if
16 any person in the household is 18 years of age or older and has
17 lived in another state in the preceding five years, the county social
18 worker shall check the other state's child abuse and neglect registry
19 to the extent required by federal law.

20 (d) (1) If the results of the California and federal criminal
21 records check indicates that the person has no criminal record, the
22 county social worker and court may consider the home of the
23 relative, prospective guardian, or other person who is not a licensed
24 or certified foster parent for placement of a child.

25 (2) If the criminal records check indicates that the person has
26 been convicted of a crime that the Director of Social Services
27 cannot grant an exemption for under Section 1522 of the Health
28 and Safety Code, the child shall not be placed in the home. If the
29 criminal records check indicates that the person has been convicted
30 of a crime that the Director of Social Services may grant an
31 exemption for under Section 1522 of the Health and Safety Code,
32 the child shall not be placed in the home unless a criminal records
33 exemption has been granted by the county, based on substantial
34 and convincing evidence to support a reasonable belief that the
35 person with the criminal conviction is of such good character as
36 to justify the placement and not present a risk of harm to the child
37 pursuant to paragraph (3): *any of the following crimes, the child*
38 *shall not be placed in the home:*

39 (3) (A) ~~A county may issue a criminal records exemption only~~
40 ~~if that county has been granted permission by the Director of Social~~

1 ~~Services to issue criminal records exemptions. The county may~~
2 ~~file a request with the Director of Social Services seeking~~
3 ~~permission for the county to establish a procedure to evaluate and~~
4 ~~grant appropriate individual criminal records exemptions for~~
5 ~~persons described in subdivision (b). The director shall grant or~~
6 ~~deny the county's request within 14 days of receipt. The county~~
7 ~~shall evaluate individual criminal records in accordance with the~~
8 ~~standards and limitations set forth in paragraph (1) of subdivision~~
9 ~~(g) of Section 1522 of the Health and Safety Code, and in no event~~
10 ~~shall the county place a child in the home of a person who is~~
11 ~~ineligible for an exemption under that provision.~~

12 ~~(B) The department shall monitor county implementation of the~~
13 ~~authority to grant an exemption under this paragraph to ensure that~~
14 ~~the county evaluates individual criminal records and allows or~~
15 ~~disallows placements according to the standards set forth in~~
16 ~~paragraph (1) of subdivision (g) of Section 1522 of the Health and~~
17 ~~Safety Code.~~

18 ~~(4) The department shall conduct an evaluation of the~~
19 ~~implementation of paragraph (3) through random sampling of~~
20 ~~county exemption decisions.~~

21 ~~(5) The State Department of Social Services shall not evaluate~~
22 ~~or grant criminal records exemption requests for persons described~~
23 ~~in subdivision (b), unless the exemption request is made by an~~
24 ~~Indian tribe pursuant to subdivision (f).~~

25 ~~(6) If a county has not requested, or has not been granted,~~
26 ~~permission by the State Department of Social Services to establish~~
27 ~~a procedure to evaluate and grant criminal records exemptions,~~
28 ~~the county shall not place a child into the home of a person~~
29 ~~described in subdivision (b) if any person residing in the home has~~
30 ~~been convicted of a crime other than a minor traffic violation,~~
31 ~~except as provided in subdivision (f).~~

32 ~~(A) A felony conviction for child abuse or neglect, spousal abuse,~~
33 ~~a crime against a child, including child pornography, or for a~~
34 ~~crime involving violence, including rape, sexual assault, or~~
35 ~~homicide, but not including other physical assault and battery.~~
36 ~~For purposes of this subdivision, a "crime involving violence"~~
37 ~~means an offense listed in subdivision (c) of Section 667.5 of the~~
38 ~~Penal Code.~~

39 ~~(B) A felony conviction for physical assault, battery, or a drug-~~
40 ~~or alcohol-related offense within the last five years.~~

1 (3) If the criminal records check indicates that the person has
2 been convicted of any other crime, the county social worker and
3 the court shall consider the criminal history in determining whether
4 the placement is in the best interests of the child in light of all
5 relevant circumstances, including, but not limited to, the following:

6 (A) The nature of the crimes or crimes.

7 (B) The length of time since the crime was committed.

8 (C) The number of offenses.

9 (D) Circumstances surrounding the commission of the crime
10 indicating the likelihood of future criminal activity.

11 (E) Activities since conviction, including employment,
12 participation in therapy, education, or treatment.

13 (F) Whether the person convicted has successfully completed
14 probation or parole, obtained a certificate of rehabilitation, or
15 been granted a pardon by the Governor.

16 (G) Any character references or other evidence submitted by
17 the applicant.

18 (H) Whether the person convicted demonstrated honesty and
19 truthfulness concerning the crime or crimes during the application
20 and approval process.

21 (e) Nothing in this section shall preclude a county from
22 conducting a criminal background check that the county is
23 otherwise authorized to conduct using fingerprints.

24 ~~(f) The State Department of Social Services shall evaluate a~~
25 ~~request from an Indian tribe to exempt a crime that is exemptible~~
26 ~~under Section 1522 of the Health and Safety Code, if needed, to~~
27 ~~allow placement into an Indian home that the tribe has designated~~
28 ~~for placement under the federal Indian Child Welfare Act (25~~
29 ~~U.S.C. Sec. 1901 et seq.). However, if the county with jurisdiction~~
30 ~~over the child that is the subject of the tribe's request has~~
31 ~~established an approved procedure pursuant to paragraph (3) of~~
32 ~~subdivision (d), the tribe may request that the county evaluate the~~
33 ~~exemption request. Once a tribe has elected to have the exemption~~
34 ~~request reviewed by either the State Department of Social Services~~
35 ~~or the county, the exemption decision may only be made by that~~
36 ~~entity. Nothing in this subdivision limits the duty of a county social~~
37 ~~worker to evaluate the home for placement or to gather information~~
38 ~~needed to evaluate an exemption request.~~

39 SEC. 5. Section 16519.5 of the Welfare and Institutions Code
40 is amended to read:

1 16519.5. (a) The State Department of Social Services, in
2 consultation with county child welfare agencies, foster parent
3 associations, and other interested community parties, shall
4 implement a unified, family friendly, and child-centered resource
5 family approval process to replace the existing multiple processes
6 for licensing foster family homes, approving relatives and
7 nonrelative extended family members as foster care providers, and
8 approving adoptive families.

9 (b) (1) Counties shall be selected to participate on a voluntary
10 basis as early implementation counties for the purpose of
11 participating in the initial development of the approval process.
12 Early implementation counties shall be selected according to
13 criteria developed by the department in consultation with the
14 County Welfare Directors Association. In selecting the five early
15 implementation counties, the department shall promote diversity
16 among the participating counties in terms of size and geographic
17 location.

18 (2) Additional counties may participate in the early
19 implementation of the program upon authorization by the
20 department.

21 (c) (1) For the purposes of this chapter, “resource family” means
22 an individual or couple that a participating county or foster family
23 agency, as defined in subdivision (g) of Section 11400 of this code,
24 and paragraph (4) of subdivision (a) of Section 1502 of the Health
25 and Safety Code, determines to have successfully met both the
26 home environment assessment standards and the permanency
27 assessment criteria adopted pursuant to subdivision (d) necessary
28 for providing care for a related or unrelated child who is under the
29 jurisdiction of the juvenile court, or otherwise in the care of a
30 county child welfare agency or probation department. A resource
31 family shall demonstrate all of the following:

32 (A) An understanding of the safety, permanence, and well-being
33 needs of children who have been victims of child abuse and neglect,
34 and the capacity and willingness to meet those needs, including
35 the need for protection, and the willingness to make use of support
36 resources offered by the agency, or a support structure in place,
37 or both.

38 (B) An understanding of children’s needs and development,
39 effective parenting skills or knowledge about parenting, and the

1 capacity to act as a reasonable, prudent parent in day-to-day
2 decisionmaking.

3 (C) An understanding of his or her role as a resource family and
4 the capacity to work cooperatively with the agency and other
5 service providers in implementing the child’s case plan.

6 (D) The financial ability within the household to ensure the
7 stability and financial security of the family.

8 (E) An ability and willingness to provide a family setting that
9 promotes normal childhood experiences that serves the needs of
10 the child.

11 (2) Subsequent to meeting the criteria set forth in this
12 subdivision and designation as a resource family, a resource family
13 shall be considered eligible to provide foster care for related and
14 unrelated children in out-of-home placement, shall be considered
15 approved for adoption or guardianship, and shall not have to
16 undergo any additional approval or licensure as long as the family
17 lives in a county participating in the program.

18 (3) Resource family approval means that the applicant
19 successfully meets the home environment assessment and
20 permanency assessment standards. This approval is in lieu of the
21 existing foster care license, relative or nonrelative extended family
22 member approval, and the adoption home study approval.

23 (4) Approval of a resource family does not guarantee an initial
24 or continued placement of a child with a resource family.

25 (5) Notwithstanding paragraphs (1) to (4), inclusive, the
26 department or county may cease any further review of an
27 application if the applicant has had a previous application denial
28 within the preceding year, or if the applicant has had a previous
29 rescission, revocation, or exemption denial or rescission by the
30 department or county within the preceding two years. However,
31 the department or county may continue to review an application
32 if it has determined that the reasons for the previous denial,
33 rescission, or revocation were due to circumstances and conditions
34 that either have been corrected or are no longer in existence. If an
35 individual was excluded from a resource family home or facility
36 licensed by the department, the department or county shall cease
37 review of the individual’s application unless the excluded
38 individual has been reinstated pursuant to Section 11522 of the
39 Government Code. The cessation of review shall not constitute a

1 denial of the application for purposes of this section or any other
2 law.

3 (d) Prior to implementation of this program, the department
4 shall adopt standards pertaining to the home environment and
5 permanency assessments of a resource family.

6 (1) Resource family home environment assessment standards
7 shall include, but not be limited to, all of the following:

8 (A) (i) Criminal records clearance of all adults residing in, or
9 regularly present in, the home, ~~and not exempted from~~
10 ~~fingerprinting, as set forth in subdivision (b) of Section 1522 of~~
11 ~~the Health and Safety Code, pursuant to Section 8712 of the Family~~
12 ~~Code, utilizing a check of the Child Abuse Central Index (CACI),~~
13 and receipt of a fingerprint-based state and federal criminal
14 offender record information search response. The criminal history
15 information shall include subsequent notifications pursuant to
16 Section 11105.2 of the Penal Code.

17 (ii) *If the criminal records check indicates that the person has*
18 *been convicted of either of the following crimes, home approval*
19 *shall be denied.*

20 (I) *A felony conviction for child abuse or neglect, spousal abuse,*
21 *or a crime against a child, including child pornography, or for a*
22 *crime involving violence, including rape, sexual assault, or*
23 *homicide, but not including other physical assault and battery.*
24 *For purposes of this subdivision, a “crime involving violence”*
25 *means an offense listed in subdivision (c) of Section 667.5 of the*
26 *Penal Code.*

27 (II) *A felony conviction for physical assault, battery, or a drug-*
28 *or alcohol-related offense within the last five years.*

29 (iii) *If the criminal records check indicates that the person has*
30 *been convicted of any crime other than a crime described in clause*
31 *(ii), the criminal history shall be considered in determining whether*
32 *the placement is in the best interests of the child, in light of all*
33 *relevant circumstances, including, but not limited to, the following:*

34 (I) *The nature of the crimes or crimes.*

35 (II) *The length of time since the crime was committed.*

36 (III) *The number of offenses.*

37 (IV) *Circumstances surrounding the commission of the crime*
38 *indicating the likelihood of future criminal activity.*

39 (V) *Activities since conviction, including employment,*
40 *participation in therapy, education, or treatment.*

1 (VI) Whether the person convicted has successfully completed
 2 probation or parole, obtained a certificate of rehabilitation, or
 3 been granted a pardon by the Governor.

4 (VII) Any character references or other evidence submitted by
 5 the applicant.

6 (VIII) Whether the person convicted demonstrated honesty and
 7 truthfulness concerning the crime or crimes during the application
 8 and approval process.

9 (iv) The determination whether to approve the home pursuant
 10 to clause (iii) shall be reviewed by county staff at the supervisory
 11 or administrative level, for compliance with the approval standards
 12 set forth in this subdivision. This subdivision does not affect the
 13 right of an applicant to request an administrative hearing pursuant
 14 to Section 10950.

15 (ii)

16 (B) Consideration of any substantiated allegations of child abuse
 17 or neglect against either the applicant or any other adult residing
 18 in the home. ~~An approval may not be granted to applicants whose~~
 19 ~~criminal record indicates a conviction for any of the offenses~~
 20 ~~specified in subdivision (g) of Section 1522 of the Health and~~
 21 ~~Safety Code.~~

22 (iii) ~~If the resource family parent, applicant, or any other person~~
 23 ~~specified in subdivision (b) of Section 1522 of the Health and~~
 24 ~~Safety Code has been convicted of a crime other than a minor~~
 25 ~~traffic violation, except for the civil penalty language, the criminal~~
 26 ~~background check provisions specified in subdivisions (d) through~~
 27 ~~(f) of Section 1522 of the Health and Safety Code shall apply.~~
 28 ~~Exemptions from the criminal records clearance requirements set~~
 29 ~~forth in this section may be granted by the director or the early~~
 30 ~~implementation county, if that county has been granted permission~~
 31 ~~by the director to issue criminal records exemptions pursuant to~~
 32 ~~Section 361.4, using the exemption criteria currently used for foster~~
 33 ~~care licensing as specified in subdivision (g) of Section 1522 of~~
 34 ~~the Health and Safety Code.~~

35 (iv)

36 (i) For public foster family agencies approving resource families,
 37 the criminal records clearance process set forth in ~~clause (i)~~
 38 ~~subparagraph (A)~~ shall be utilized.

39 (v)

1 (ii) For private foster family agencies approving resource
2 families, the criminal records clearance process set forth in ~~clause~~
3 ~~(i) subparagraph (A)~~ shall be utilized, but the Department of Justice
4 shall disseminate a fitness determination resulting from the federal
5 criminal offender record information search.

6 ~~(B)~~

7 (C) Buildings and grounds and storage requirements set forth
8 in Sections 89387 and 89387.2 of *Article 3 of Chapter 9.5 of*
9 *Division 6 of Title 22 of the California Code of Regulations.*

10 ~~(C)~~

11 (D) In addition to the foregoing requirements, the resource
12 family home environment assessment standards shall also require
13 the following:

14 (i) That the applicant demonstrate an understanding about the
15 rights of children in care and his or her responsibility to safeguard
16 those rights.

17 (ii) That the total number of children residing in the home of a
18 resource family shall be no more than the total number of children
19 the resource family can properly care for, regardless of status, and
20 shall not exceed six children, unless exceptional circumstances
21 that are documented in the foster child's case file exist to permit
22 a resource family to care for more children, including, but not
23 limited to, the need to place siblings together.

24 (iii) That the applicant understands his or her responsibilities
25 with respect to acting as a reasonable and prudent parent, and
26 maintaining the least restrictive environment that serves the needs
27 of the child.

28 (2) The resource family permanency assessment standards shall
29 include, but not be limited to, all of the following:

30 (A) The applicant shall complete caregiver training.

31 (B) (i) The applicant shall complete a psychosocial assessment,
32 which shall include the results of a risk assessment.

33 (ii) A caregiver risk assessment shall include, but shall not be
34 limited to, physical and mental health, alcohol and other substance
35 use and abuse, family and domestic violence, and the factors listed
36 in subparagraphs (A) and (D) of paragraph (1) of subdivision (c).

37 (C) The applicant shall complete any other activities that relate
38 to a resource family's ability to achieve permanency with the child.

39 (e) (1) A child may be placed with a resource family that has
40 successfully completed the home environment assessment prior

1 to completion of a permanency assessment only if a compelling
2 reason for the placement exists based on the needs of the child.

3 (2) The permanency assessment shall be completed within 90
4 days of the child’s placement in the home, unless good cause exists
5 based upon the needs of the child.

6 (3) If additional time is needed to complete the permanency
7 assessment, the county shall document the extenuating
8 circumstances for the delay and generate a timeframe for the
9 completion of the permanency assessment.

10 (4) The county shall report to the department on a quarterly
11 basis the number of families with a child in an approved home
12 whose permanency assessment goes beyond 90 days and
13 summarize the reasons for these delays.

14 (5) A child may be placed with a relative, as defined in Section
15 319, or nonrelative extended family member, as defined in Section
16 362.7, prior to applying as a resource family only on an emergency
17 basis if all of the following requirements are met:

18 (A) Consideration of the results of a criminal records check
19 conducted pursuant to Section 16504.5 of the relative or nonrelative
20 extended family member and of every other adult in the home.

21 (B) Consideration of the results of the Child Abuse Central
22 Index (CACI) consistent with Section 1522.1 of the Health and
23 Safety Code of the relative or nonrelative extended family member,
24 and of every other adult in the home.

25 (C) The home and grounds are free of conditions that pose undue
26 risk to the health and safety of the child.

27 (D) For any placement made pursuant to this paragraph, the
28 county shall initiate the home environment assessment no later
29 than five business days after the placement, which shall include a
30 face-to-face interview with the resource family applicant and child.

31 (E) For any placement made pursuant to this paragraph,
32 AFDC-FC funding shall not be available until approval of the
33 resource family has been completed.

34 (F) Any child placed under this section shall be afforded all the
35 rights set forth in Section 16001.9.

36 (f) The State Department of Social Services shall be responsible
37 for all of the following:

38 (1) Selecting early implementation counties, based on criteria
39 established by the department in consultation with the County
40 Welfare Directors Association.

1 (2) Establishing timeframes for participating counties to submit
2 an implementation plan, enter into terms and conditions for
3 participation in the program, train appropriate staff, and accept
4 applications from resource families.

5 (3) Entering into terms and conditions for participation in the
6 program by counties.

7 (4) Administering the program through the issuance of written
8 directives that shall have the same force and effect as regulations.
9 Any directive affecting Article 1 (commencing with Section 700)
10 of Chapter 7 of Title 11 of the California Code of Regulations shall
11 be approved by the Department of Justice. The directives shall be
12 exempt from the rulemaking provisions of the Administrative
13 Procedure Act (Chapter 3.5 (commencing with Section 11340))
14 of Part 1 of Division 3 of Title 2 of the Government Code.

15 (5) Approving and requiring the use of a single standard for
16 resource family approval.

17 (6) Adopting and requiring the use of standardized
18 documentation for the home environment and permanency
19 assessments of resource families.

20 (7) Requiring counties to monitor resource families including,
21 but not limited to, all of the following:

22 (A) Investigating complaints of resource families.

23 (B) Developing and monitoring resource family corrective action
24 plans to correct identified deficiencies and to rescind resource
25 family approval if compliance with corrective action plans is not
26 achieved.

27 (8) Ongoing oversight and monitoring of county systems and
28 operations including all of the following:

29 (A) Reviewing the county's implementation of the program.

30 (B) Reviewing an adequate number of approved resource
31 families in each participating county to ensure that approval
32 standards are being properly applied. The review shall include
33 case file documentation, and may include onsite inspection of
34 individual resource families. The review shall occur on an annual
35 basis, and more frequently if the department becomes aware that
36 a participating county is experiencing a disproportionate number
37 of complaints against individual resource family homes.

38 (C) Reviewing county reports of serious complaints and
39 incidents involving approved resource families, as determined
40 necessary by the department. The department may conduct an

- 1 independent review of the complaint or incident and change the
- 2 findings depending on the results of its investigation.
- 3 (D) Investigating unresolved complaints against participating
- 4 counties.
- 5 (E) Requiring corrective action of counties that are not in full
- 6 compliance with the terms and conditions of the program.
- 7 (9) Updating the Legislature on the early implementation phase
- 8 of the program, including the status of implementation, successes,
- 9 and challenges during the early implementation phase, and relevant
- 10 available data, including resource family satisfaction.
- 11 (10) Implementing due process procedures, including all of the
- 12 following:
 - 13 (A) Providing a statewide fair hearing process for denials,
 - 14 rescissions, or exclusion actions.
 - 15 (B) Amending the department’s applicable state hearing
 - 16 procedures and regulations or using the Administrative Procedure
 - 17 Act, when applicable, as necessary for the administration of the
 - 18 program.
 - 19 (g) Counties participating in the program shall be responsible
 - 20 for all of the following:
 - 21 (1) Submitting an implementation plan, entering into terms and
 - 22 conditions for participation in the program, consulting with the
 - 23 county probation department in the development of the
 - 24 implementation plan, training appropriate staff, and accepting
 - 25 applications from resource families within the timeframes
 - 26 established by the department.
 - 27 (2) Complying with the written directives pursuant to paragraph
 - 28 (4) of subdivision (f).
 - 29 (3) Implementing the requirements for resource family approval
 - 30 and utilizing standardized documentation established by the
 - 31 department.
 - 32 (4) Ensuring staff have the education and experience necessary
 - 33 to complete the home environment and psychosocial assessments
 - 34 competently.
 - 35 (5) (A) Taking the following actions, as applicable:
 - 36 (i) Approving or denying resource family applications.
 - 37 (ii) Rescinding approvals of resource families.
 - 38 (iii) Excluding a resource family parent or other individual from
 - 39 presence in a resource family home, consistent with the established
 - 40 standard.

- 1 (iv) Issuing a temporary suspension order that suspends the
2 resource family approval prior to a hearing when urgent action is
3 needed to protect a child or nonminor dependent from physical or
4 mental abuse, abandonment, or any other substantial threat to
5 health or safety, consistent with the established standard.
- 6 (B) Providing a resource family parent, applicant, or excluded
7 individual requesting review of that decision with due process
8 pursuant to the department’s statutes, regulations, and written
9 directives.
- 10 (C) Notifying the department of any decisions denying a
11 resource family’s application or rescinding the approval of a
12 resource family, excluding an individual, or taking other
13 administrative action.
- 14 (D) Issuing a temporary suspension order that suspends the
15 resource family approval prior to a hearing, when urgent action is
16 needed to protect a child or nonminor dependent who is or may
17 be placed in the home from physical or mental abuse, abandonment,
18 or any other substantial threat to health or safety.
- 19 (6) Updating resource family approval annually.
- 20 (7) Monitoring resource families through all of the following:
- 21 (A) Ensuring that social workers who identify a condition in
22 the home that may not meet the approval standards set forth in
23 subdivision (d) while in the course of a routine visit to children
24 placed with a resource family take appropriate action as needed.
- 25 (B) Requiring resource families to comply with corrective action
26 plans as necessary to correct identified deficiencies. If corrective
27 action is not completed as specified in the plan, the county may
28 rescind the resource family approval.
- 29 (C) Requiring resource families to report to the county child
30 welfare agency any incidents consistent with the reporting
31 requirements for licensed foster family homes.
- 32 (8) Investigating all complaints against a resource family and
33 taking action as necessary. This shall include investigating any
34 incidents reported about a resource family indicating that the
35 approval standard is not being maintained.
- 36 (A) The child’s social worker shall not conduct the formal
37 investigation into the complaint received concerning a family
38 providing services under the standards required by subdivision
39 (d). To the extent that adequate resources are available, complaints

1 shall be investigated by a worker who did not initially conduct the
2 home environment or psychosocial assessments.

3 (B) Upon conclusion of the complaint investigation, the final
4 disposition shall be reviewed and approved by a supervising staff
5 member.

6 (C) The department shall be notified of any serious incidents
7 or serious complaints or any incident that falls within the definition
8 of Section 11165.5 of the Penal Code. If those incidents or
9 complaints result in an investigation, the department shall also be
10 notified as to the status and disposition of that investigation.

11 (9) Performing corrective action as required by the department.

12 (10) Assessing county performance in related areas of the
13 California Child and Family Services Review System, and
14 remedying problems identified.

15 (11) Submitting information and data that the department
16 determines is necessary to study, monitor, and prepare the report
17 specified in paragraph (9) of subdivision (f).

18 (12) Ensuring resource family applicants and resource families
19 have the necessary knowledge, skills, and abilities to support
20 children in foster care by completing caregiver training. The
21 training should include a curriculum that supports the role of a
22 resource family in parenting vulnerable children and should be
23 ongoing in order to provide resource families with information on
24 trauma-informed practices and requirements and other topics within
25 the foster care system.

26 (13) Ensuring that a resource family applicant completes a
27 minimum of 12 hours of preapproval training. The training shall
28 include, but not be limited to, all of the following courses:

29 (A) An overview of the child protective and probation systems.

30 (B) The effects of trauma, including grief and loss, and child
31 abuse and neglect, on child development and behavior, and
32 methods to behaviorally support children impacted by that trauma
33 or child abuse and neglect.

34 (C) Positive discipline and the importance of self-esteem.

35 (D) Health issues in foster care.

36 (E) Accessing services and supports to address education needs,
37 physical, mental, and behavioral health, and substance use
38 disorders, including culturally relevant services.

39 (F) The rights of a child in foster care, and the resource family's
40 responsibility to safeguard those rights, including the right to have

1 fair and equal access to all available services, placement, care,
2 treatment, and benefits, and to not be subjected to discrimination
3 or harassment on the basis of actual or perceived race, ethnic group
4 identification, ancestry, national origin, color, religion, sex, sexual
5 orientation, gender identity, mental or physical disability, or HIV
6 status.

7 (G) Cultural needs of children, including instruction on cultural
8 competency and sensitivity, and related best practices for providing
9 adequate care for children or youth across diverse ethnic and racial
10 backgrounds, as well as children or youth identifying as lesbian,
11 gay, bisexual, or transgender.

12 (H) Basic instruction on existing laws and procedures regarding
13 the safety of foster youth at school; ~~and ensuring a harassment and~~
14 ~~violence free school environment pursuant to Article 3.6~~
15 ~~(commencing with Section 32228) of Chapter 2 of Part 19 of~~
16 ~~Division 1 of Title 1 of the Education Code.~~ *school.*

17 (I) Permanence, well-being, and education needs of children.

18 (J) Child and adolescent development, including sexual
19 orientation, gender identity, and expression.

20 (K) The role of resource families, including working
21 cooperatively with the child welfare or probation agency, the
22 child's family, and other service providers implementing the case
23 plan.

24 (L) The role of a resource family on the child and family team
25 as defined in paragraph (4) of subdivision (a) of Section 16501.

26 (M) A resource family's responsibility to act as a reasonable
27 and prudent parent, and to provide a family setting that promotes
28 normal childhood experiences and that serves the needs of the
29 child.

30 (N) An overview of the specialized training identified in
31 subdivision (h).

32 (14) Ensuring approved resource families complete a minimum
33 of eight training hours annually, a portion of which shall be from
34 one or more of the topics listed in paragraph (13).

35 (h) In addition to any training required by this section, a resource
36 family may be required to receive specialized training, as relevant,
37 for the purpose of preparing the resource family to meet the needs
38 of a particular child in care. This training may include, but is not
39 limited to, the following:

- 1 (1) Understanding how to use best practices for providing care
2 and supervision to commercially sexually exploited children.
- 3 (2) Understanding how to use best practices for providing care
4 and supervision to lesbian, gay, bisexual, and transgender children.
- 5 (3) Understanding the requirements and best practices regarding
6 psychotropic medications, including, but not limited to, court
7 authorization, benefits, uses, side effects, interactions, assistance
8 with self-administration, misuse, documentation, storage, and
9 metabolic monitoring of children prescribed psychotropic
10 medications.
- 11 (4) Understanding the federal Indian Child Welfare Act (25
12 U.S.C. Sec. 1901 et seq.), its historical significance, the rights of
13 children covered by the act, and the best interests of Indian
14 children, including the role of the caregiver in supporting culturally
15 appropriate, child-centered practices that respect Native American
16 history, culture, retention of tribal membership and connection to
17 the tribal community and traditions.
- 18 (5) Understanding how to use best practices for providing care
19 and supervision to nonminor dependents.
- 20 (6) Understanding how to use best practices for providing care
21 and supervision to children with special health care needs.
- 22 (7) Understanding the different permanency options and the
23 services and benefits associated with the options.
- 24 (i) Nothing in this section shall preclude a county or a foster
25 family agency from requiring resource family training in excess
26 of the requirements in this section.
- 27 (j) (1) Approved relatives and nonrelative extended family
28 members, licensed foster family homes, or approved adoptive
29 homes that have completed the license or approval process prior
30 to full implementation of the program shall not be considered part
31 of the program. The otherwise applicable assessment and oversight
32 processes shall continue to be administered for families and
33 facilities not included in the program.
- 34 (2) Upon implementation of the program in a county, that
35 county may not accept new applications for the licensure of foster
36 family homes, the approval of relative and nonrelative extended
37 family members, or the approval of prospective adoptive homes.
- 38 (k) The department may waive regulations that pose a barrier
39 to implementation and operation of this program. The waiver of
40 any regulations by the department pursuant to this section shall

1 apply to only those counties or foster family agencies participating
2 in the program and only for the duration of the program.

3 (l) Resource families approved under initial implementation of
4 the program, who move within an early implementation county or
5 who move to another early implementation county, shall retain
6 their resource family status if the new building and grounds,
7 outdoor activity areas, and storage areas meet home environment
8 standards. The State Department of Social Services or early
9 implementation county may allow a program-affiliated individual
10 to transfer his or her subsequent arrest notification if the individual
11 moves from one early implementation county to another early
12 implementation county, as specified in subdivision (g) of Section
13 1522 of the Health and Safety Code.

14 (m) (1) The approval of a resource family who moves to a
15 nonparticipating county remains in full force and effect pending
16 a determination by the county approval agency or the department,
17 as appropriate, whether the new building and grounds and storage
18 areas meet applicable standards, and whether all adults residing
19 in the home have a criminal records clearance ~~or exemptions~~
20 ~~granted, using the exemption criteria used for foster care licensing,~~
21 ~~as specified in subdivision (g) of Section 1522 of the Health and~~
22 ~~Safety pursuant to Section 8712 of the Family Code.~~ Upon this
23 determination, the nonparticipating county shall either approve
24 the family as a relative or nonrelative extended family member,
25 as applicable, or the department shall license the family as a foster
26 family home.

27 (2) Subject to the requirements in paragraph (1), the family shall
28 continue to be approved for guardianship and adoption. Nothing
29 in this subdivision shall limit a county or adoption agency from
30 determining that the family is not approved for guardianship or
31 adoption based on changes in the family's circumstances or
32 psychosocial assessment.

33 (3) A program-affiliated individual who moves to a
34 nonparticipating county may not transfer his or her subsequent
35 arrest notification from a participating county to the
36 nonparticipating county.

37 (n) Implementation of the program shall be contingent upon the
38 continued availability of federal Social Security Act Title IV-E
39 (42 U.S.C. Sec. 670) funds for costs associated with placement of

1 children with resource families assessed and approved under the
2 program.

3 (o) A child placed with a resource family shall be eligible for
4 AFDC-FC payments. A resource family, or a foster family agency
5 pursuant to subdivisions (s) and (t), shall be paid an AFDC-FC
6 rate pursuant to Sections 11460, 11461, and 11463. Sharing ratios
7 for nonfederal expenditures for all costs associated with activities
8 related to the approval of relatives and nonrelative extended family
9 members shall be in accordance with Section 10101.

10 (p) The Department of Justice shall charge fees sufficient to
11 cover the cost of initial or subsequent criminal offender record
12 information and Child Abuse Central Index searches, processing,
13 or responses, as specified in this section.

14 (q) Except as provided, approved resource families under this
15 program shall be exempt from all of the following:

16 (1) Licensure requirements set forth under the Community Care
17 Facilities Act, commencing with Section 1500 of the Health and
18 Safety Code, and all regulations promulgated thereto.

19 (2) Relative and nonrelative extended family member approval
20 requirements set forth under Sections 309, 361.4, and 362.7, and
21 all regulations promulgated thereto.

22 (3) Adoptions approval and reporting requirements set forth
23 under Section 8712 of the Family Code, and all regulations
24 promulgated thereto.

25 (r) (1) Early implementation counties shall be authorized to
26 continue through December 31, 2016. The program shall be
27 implemented by each county on or before January 1, 2017.

28 (2) No later than July 1, 2017, each county shall provide the
29 following information to all licensed foster family homes and all
30 approved relatives and nonrelative extended family members:

31 (A) A detailed description of the resource family approval
32 program.

33 (B) Notification that, in order to care for a foster child, resource
34 family approval is required by December 31, 2019.

35 (C) Notification that a foster family home license and an
36 approval of a relative or nonrelative extended family member shall
37 be forfeited by operation of law as provided for in paragraph (4).

38 (3) By no later than January 1, 2018, the following shall apply
39 to all licensed foster family homes and approved relative and
40 nonrelative extended family members:

1 (A) A licensed foster family home, and an approved relative or
2 nonrelative extended family member with an approved adoptive
3 home study completed prior to January 1, 2018, shall be deemed
4 to be an approved resource family.

5 (B) A licensed foster family home, and an approved relative or
6 nonrelative extended family member who had a child in placement
7 at any time, for any length of time, between January 1, 2017, and
8 December 31, 2017, inclusive, may be approved as a resource
9 family on the date of successful completion of a psychosocial
10 assessment pursuant to subparagraph (B) of paragraph (2) of
11 subdivision (d).

12 (C) A county may provide supportive services to all licensed
13 foster family home providers, relatives, and nonrelative extended
14 family members with a child in placement to assist with the
15 resource family transition and to minimize placement disruptions.

16 (4) All foster family licenses and approvals of a relative or
17 nonrelative extended family member shall be forfeited by operation
18 of law on December 31, 2019, except as provided in this paragraph:

19 (A) All licensed foster family homes that did not have a child
20 in placement at any time, for any length of time, between January
21 1, 2017, and December 31, 2017, inclusive, shall forfeit the license
22 by operation of law on January 1, 2018.

23 (B) For foster family home licensees and approved relatives or
24 nonrelative extended family members who have a pending resource
25 family application on December 31, 2019, the foster family home
26 license or relative and nonrelative extended family member
27 approval shall be forfeited by operation of law on the date of
28 approval as a resource family. If approval is denied, forfeiture by
29 operation of law shall occur on the date of completion of any
30 proceedings required by law to ensure due process.

31 (s) On and after January 1, 2017, all licensed foster family
32 agencies shall approve resource families in lieu of certifying foster
33 homes. A foster family agency or a short-term residential treatment
34 center pursuant to subdivision (b) of Section 11462 shall require
35 applicants and resource families to meet the resource family
36 approval standards and requirements set forth in this chapter and
37 in the written directives adopted pursuant to this chapter prior to
38 approval and in order to maintain approval.

39 (t) ~~Commencing January 1, 2016, the~~ *The* department may
40 establish participation conditions, and select and authorize foster

1 family agencies that voluntarily submit implementation plans and
2 revised plans of operation in accordance with requirements
3 established by the department, to approve resource families in lieu
4 of certifying foster homes.

5 (1) Notwithstanding any other law, a participating foster family
6 agency shall require resource families to meet and maintain the
7 resource family approval standards and requirements set forth in
8 this chapter and in the written directives adopted hereto prior to
9 approval and in order to maintain approval.

10 (2) A participating foster family agency shall implement the
11 resource family approval program pursuant to Section 1517 of the
12 Health and Safety Code.

13 (3) Nothing in this section shall be construed to limit the
14 authority of the department to inspect, evaluate, or investigate a
15 complaint or incident, or initiate a disciplinary action against a
16 foster family agency pursuant to Article 5 (commencing with
17 Section 1550) of Chapter 3 of Division 2 of the Health and Safety
18 Code, or to take any action it may deem necessary for the health
19 and safety of children placed with the foster family agency.

20 (4) The department may adjust the foster family agency
21 AFDC-FC rate pursuant to Section 11463 for implementation of
22 this subdivision.

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