

AMENDED IN SENATE MARCH 31, 2016

SENATE BILL

No. 1201

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~~ *Institutions* Code, relating to child placement.

LEGISLATIVE COUNSEL'S DIGEST

SB 1201, as amended, 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. A federal-level criminal
13 offender record ~~requests~~ *request* to the Department of Justice shall
14 be submitted with fingerprint images and related information
15 required 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) The department, county adoption agency, or licensed
35 adoption agency shall not give final approval for an adoptive

1 placement in any home in which the prospective adoptive parent
2 or any adult living in the prospective adoptive home has either of
3 the following:

4 (1) A felony conviction for child abuse or neglect, spousal abuse,
5 crimes against a child, including child pornography, or for a crime
6 involving violence, including rape, sexual assault, or homicide,
7 but not including other physical assault and battery. For purposes
8 of this subdivision, a “crime involving violence” means an offense
9 listed in subdivision (c) of Section 667.5 of the Penal Code.

10 (2) A felony conviction that occurred within the last five years
11 for physical assault, battery, or a drug- or alcohol-related offense.

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

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

23 1522. The Legislature recognizes the need to generate timely
24 and accurate positive fingerprint identification of applicants as a
25 condition of issuing licenses, permits, or certificates of approval
26 for persons to operate or provide direct care services in a
27 community care facility, foster family home, or a certified family
28 home of a licensed foster family agency. Therefore, the Legislature
29 supports the use of the fingerprint live-scan technology, as
30 identified in the long-range plan of the Department of Justice for
31 fully automating the processing of fingerprints and other data by
32 the year 1999, otherwise known as the California Crime
33 Information Intelligence System (CAL-CII), to be used for
34 applicant fingerprints. It is the intent of the Legislature in enacting
35 this section to require the fingerprints of those individuals whose
36 contact with community care clients may pose a risk to the clients’
37 health and safety. An individual shall be required to obtain either
38 a criminal record clearance or a criminal record exemption from
39 the State Department of Social Services before his or her initial
40 presence in a community care facility or certified family home.

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

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

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

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

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

30 (B) If the State Department of Social Services finds that the
31 applicant, or any other person specified in subdivision (b), is
32 awaiting trial for a crime other than a minor traffic violation, the
33 State Department of Social Services may cease processing the
34 criminal record information until the conclusion of the trial.

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

38 (D) If the State Department of Social Services finds after
39 licensure that the licensee, or any other person specified in
40 paragraph (1) of subdivision (b), has been convicted of a crime

1 other than a minor traffic violation, the license may be revoked,
2 unless the director grants an exemption pursuant to subdivision
3 (g).

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

27 (F) The State Department of Social Services shall develop
28 procedures to provide the individual's state and federal criminal
29 history information with the written notification of his or her
30 exemption denial or revocation based on the criminal record.
31 Receipt of the criminal history information shall be optional on
32 the part of the individual, as set forth in the agency's procedures.
33 The procedure shall protect the confidentiality and privacy of the
34 individual's record, and the criminal history information shall not
35 be made available to the employer.

36 (G) Notwithstanding any other law, the department is authorized
37 to provide an individual with a copy of his or her state or federal
38 level criminal offender record information search response as
39 provided to that department by the Department of Justice if the
40 department has denied a criminal background clearance based on

1 this information and the individual makes a written request to the
2 department for a copy specifying an address to which it is to be
3 sent. The state or federal level criminal offender record information
4 search response shall not be modified or altered from its form or
5 content as provided by the Department of Justice and shall be
6 provided to the address specified by the individual in his or her
7 written request. The department shall retain a copy of the
8 individual's written request and the response and date provided.

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

12 (A) Adults responsible for administration or direct supervision
13 of staff.

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

16 (C) Any person who provides client assistance in dressing,
17 grooming, bathing, or personal hygiene. Any nurse assistant or
18 home health aide meeting the requirements of Section 1338.5 or
19 1736.6, respectively, who is not employed, retained, or contracted
20 by the licensee, and who has been certified or recertified on or
21 after July 1, 1998, shall be deemed to meet the criminal record
22 clearance requirements of this section. A certified nurse assistant
23 and certified home health aide who will be providing client
24 assistance and who falls under this exemption shall provide one
25 copy of his or her current certification, prior to providing care, to
26 the community care facility. The facility shall maintain the copy
27 of the certification on file as long as care is being provided by the
28 certified nurse assistant or certified home health aide at the facility
29 or certified family home. Nothing in this paragraph restricts the
30 right of the department to exclude a certified nurse assistant or
31 certified home health aide from a licensed community care facility
32 or certified family home pursuant to Section 1558.

33 (D) Any staff person, volunteer, or employee who has contact
34 with the clients.

35 (E) If the applicant is a firm, partnership, association, or
36 corporation, the chief executive officer or other person serving in
37 like capacity.

38 (F) Additional officers of the governing body of the applicant,
39 or other persons with a financial interest in the applicant, as
40 determined necessary by the department by regulation. The criteria

1 used in the development of these regulations shall be based on the
2 person's capability to exercise substantial influence over the
3 operation of the facility.

4 (2) The following persons are exempt from the requirements
5 applicable under paragraph (1):

6 (A) A medical professional as defined in department regulations
7 who holds a valid license or certification from the person's
8 governing California medical care regulatory entity and who is
9 not employed, retained, or contracted by the licensee if all of the
10 following apply:

11 (i) The criminal record of the person has been cleared as a
12 condition of licensure or certification by the person's governing
13 California medical care regulatory entity.

14 (ii) The person is providing time-limited specialized clinical
15 care or services.

16 (iii) The person is providing care or services within the person's
17 scope of practice.

18 (iv) The person is not a community care facility licensee or an
19 employee of the facility.

20 (B) A third-party repair person or similar retained contractor if
21 all of the following apply:

22 (i) The person is hired for a defined, time-limited job.

23 (ii) The person is not left alone with clients.

24 (iii) When clients are present in the room in which the repair
25 person or contractor is working, a staff person who has a criminal
26 record clearance or exemption is also present.

27 (C) Employees of a licensed home health agency and other
28 members of licensed hospice interdisciplinary teams who have a
29 contract with a client or resident of the facility and are in the
30 facility at the request of that client or resident's legal
31 decisionmaker. The exemption does not apply to a person who is
32 a community care facility licensee or an employee of the facility.

33 (D) Clergy and other spiritual caregivers who are performing
34 services in common areas of the community care facility or who
35 are advising an individual client at the request of, or with the
36 permission of, the client or legal decisionmaker, are exempt from
37 fingerprint and criminal background check requirements imposed
38 by community care licensing. This exemption does not apply to a
39 person who is a community care licensee or employee of the
40 facility.

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

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

7 (3) In addition to the exemptions in paragraph (2), the following
8 persons in foster family homes, certified family homes, and small
9 family homes are exempt from the requirements applicable under
10 paragraph (1):

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

22 (B) Parents of a foster child's friend when the foster child is
23 visiting the friend's home and the friend, licensed or certified foster
24 parent, or both are also present. However, the licensee or certified
25 parent, acting as a reasonable and prudent parent, may allow the
26 parent of the foster child's friend to act as an appropriate short-term
27 babysitter for the child without the friend being present.

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

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

36 (A) Unless contraindicated by the client's individualized
37 program plan (IPP) or needs and service plan, a spouse, significant
38 other, relative, or close friend of a client, or an attendant or a
39 facilitator for a client with a developmental disability if the
40 attendant or facilitator is not employed, retained, or contracted by

1 the licensee. This exemption applies only if the person is visiting
2 the client or providing direct care and supervision to the client.

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

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

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

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

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

21 (B) Nothing in this subdivision shall prevent a licensee from
22 requiring a criminal record clearance of any individual exempt
23 from the requirements of this section, provided that the individual
24 has client contact.

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

27 (c) (1) Subsequent to initial licensure, a person specified in
28 subdivision (b) who is not exempted from fingerprinting shall
29 obtain either a criminal record clearance or an exemption from
30 disqualification pursuant to subdivision (g) from the State
31 Department of Social Services prior to employment, residence, or
32 initial presence in the facility. A person specified in subdivision
33 (b) who is not exempt from fingerprinting shall be fingerprinted
34 and shall sign a declaration under penalty of perjury regarding any
35 prior criminal convictions. The licensee shall submit fingerprint
36 images and related information to the Department of Justice and
37 the Federal Bureau of Investigation, through the Department of
38 Justice, for a state and federal level criminal offender record
39 information search, or comply with paragraph (1) of subdivision
40 (h). These fingerprint images and related information shall be sent

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

24 (2) Within 14 calendar days of the receipt of the fingerprint
25 images, the Department of Justice shall notify the State Department
26 of Social Services of the criminal record information, as provided
27 for in subdivision (a). If no criminal record information has been
28 recorded, the Department of Justice shall provide the licensee and
29 the State Department of Social Services with a statement of that
30 fact within 14 calendar days of receipt of the fingerprint images.
31 Documentation of the individual's clearance or exemption from
32 disqualification shall be maintained by the licensee and be available
33 for inspection. If new fingerprint images are required for
34 processing, the Department of Justice shall, within 14 calendar
35 days from the date of receipt of the fingerprints, notify the licensee
36 that the fingerprints were illegible, the Department of Justice shall
37 notify the State Department of Social Services, as required by
38 Section 1522.04, and shall also notify the licensee by mail, within
39 14 days of electronic transmission of the fingerprints to the
40 Department of Justice, if the person has no criminal history

1 recorded. A violation of the regulations adopted pursuant to Section
2 1522.04 shall result in the citation of a deficiency and an immediate
3 assessment of civil penalties in the amount of one hundred dollars
4 (\$100) per violation per day for a maximum of five days, unless
5 the violation is a second or subsequent violation within a 12-month
6 period in which case the civil penalties shall be in the amount of
7 one hundred dollars (\$100) per violation for a maximum of 30
8 days, and shall be grounds for disciplining the licensee pursuant
9 to Section 1550. The department may assess civil penalties for
10 continued violations as permitted by Section 1548.

11 (3) Except for persons specified in subdivision (b) who are
12 exempt from fingerprinting, the licensee shall endeavor to ascertain
13 the previous employment history of persons required to be
14 fingerprinted. If it is determined by the State Department of Social
15 Services, on the basis of the fingerprint images and related
16 information submitted to the Department of Justice, that subsequent
17 to obtaining a criminal record clearance or exemption from
18 disqualification pursuant to subdivision (g), the person has been
19 convicted of, or is awaiting trial for, a sex offense against a minor,
20 or has been convicted for an offense specified in Section 243.4,
21 273a, 273ab, 273d, 273g, or 368 of the Penal Code, or a felony,
22 the State Department of Social Services shall notify the licensee
23 to act immediately to terminate the person's employment, remove
24 the person from the community care facility, or bar the person
25 from entering the community care facility. The State Department
26 of Social Services may subsequently grant an exemption from
27 disqualification pursuant to subdivision (g). If the conviction or
28 arrest was for another crime, except a minor traffic violation, the
29 licensee shall, upon notification by the State Department of Social
30 Services, act immediately to either (A) terminate the person's
31 employment, remove the person from the community care facility,
32 or bar the person from entering the community care facility; or
33 (B) seek an exemption from disqualification pursuant to subdivision
34 (g). The State Department of Social Services shall determine if
35 the person shall be allowed to remain in the facility until a decision
36 on the exemption from disqualification is rendered. A licensee's
37 failure to comply with the department's prohibition of employment,
38 contact with clients, or presence in the facility as required by this
39 paragraph shall result in a citation of deficiency and an immediate
40 assessment of civil penalties in the amount of one hundred dollars

1 (\$100) per violation per day and shall be grounds for disciplining
2 the licensee pursuant to Section 1550.

3 (4) The department may issue an exemption from
4 disqualification on its own motion pursuant to subdivision (g) if
5 the person's criminal history indicates that the person is of good
6 character based on the age, seriousness, and frequency of the
7 conviction or convictions. The department, in consultation with
8 interested parties, shall develop regulations to establish the criteria
9 to grant an exemption from disqualification pursuant to this
10 paragraph.

11 (5) Concurrently with notifying the licensee pursuant to
12 paragraph (3), the department shall notify the affected individual
13 of his or her right to seek an exemption from disqualification
14 pursuant to subdivision (g). The individual may seek an exemption
15 from disqualification only if the licensee terminates the person's
16 employment or removes the person from the facility after receiving
17 notice from the department pursuant to paragraph (3).

18 (d) (1) Before and, as applicable, subsequent to issuing a license
19 or certificate of approval to any person or persons to operate a
20 foster family home or certified family home as described in Section
21 1506, the State Department of Social Services or other approving
22 authority shall secure California and Federal Bureau of
23 Investigation criminal history information to determine whether
24 the applicant or any person specified in subdivision (b) who is not
25 exempt from fingerprinting has ever been convicted of a crime
26 other than a minor traffic violation or arrested for any crime
27 specified in subdivision (c) of Section 290 of the Penal Code, for
28 violating Section 245, 273ab, or 273.5, subdivision (b) of Section
29 273a, or, prior to January 1, 1994, paragraph (2) of Section 273a,
30 of the Penal Code, or for any crime for which the department is
31 prohibited from granting a criminal record exemption pursuant to
32 subdivision (g). The State Department of Social Services or other
33 approving authority shall not issue a license or certificate of
34 approval to any foster family home or certified family home
35 applicant who has not obtained both a California and Federal
36 Bureau of Investigation criminal record clearance or exemption
37 from disqualification pursuant to subdivision (g).

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

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

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

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

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

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

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

30 (5) Any person specified in this subdivision shall, as a part of
31 the application, be fingerprinted and sign a declaration under
32 penalty of perjury regarding any prior criminal convictions or
33 arrests for any crime against a child, spousal or cohabitant abuse,
34 or any crime for which the department cannot grant an exemption
35 if the person was convicted and shall submit these fingerprints to
36 the licensing agency or other approving authority.

37 (6) (A) Subsequent to initial licensure or certification, a person
38 specified in subdivision (b) who is not exempt from fingerprinting
39 shall obtain both a California and Federal Bureau of Investigation
40 criminal record clearance, or an exemption from disqualification

1 pursuant to subdivision (g), prior to employment, residence, or
2 initial presence in the foster family or certified family home. A
3 foster family home licensee or foster family agency shall submit
4 fingerprint images and related information of persons specified in
5 subdivision (b) who are not exempt from fingerprinting to the
6 Department of Justice and the Federal Bureau of Investigation,
7 through the Department of Justice, for a state and federal level
8 criminal offender record information search, or to comply with
9 paragraph (1) of subdivision (h). A foster family home licensee's
10 or a foster family agency's failure to either prohibit the
11 employment, residence, or initial presence of a person specified
12 in subdivision (b) who is not exempt from fingerprinting and who
13 has not received either a criminal record clearance or an exemption
14 from disqualification pursuant to subdivision (g), or comply with
15 paragraph (1) of subdivision (h), as required in this section, shall
16 result in a citation of a deficiency, and the immediate civil penalties
17 of one hundred dollars (\$100) per violation per day for a maximum
18 of five days, unless the violation is a second or subsequent violation
19 within a 12-month period in which case the civil penalties shall
20 be in the amount of one hundred dollars (\$100) per violation for
21 a maximum of 30 days, and shall be grounds for disciplining the
22 licensee pursuant to Section 1550. A violation of the regulation
23 adopted pursuant to Section 1522.04 shall result in the citation of
24 a deficiency and an immediate assessment of civil penalties in the
25 amount of one hundred dollars (\$100) per violation per day for a
26 maximum of five days, unless the violation is a second or
27 subsequent violation within a 12-month period in which case the
28 civil penalties shall be in the amount of one hundred dollars (\$100)
29 per violation for a maximum of 30 days, and shall be grounds for
30 disciplining the foster family home licensee or the foster family
31 agency pursuant to Section 1550. The State Department of Social
32 Services may assess penalties for continued violations, as permitted
33 by Section 1548. The fingerprint images shall then be submitted
34 to the Department of Justice for processing.

35 (B) Upon request of the licensee, who shall enclose a
36 self-addressed envelope for this purpose, the Department of Justice
37 shall verify receipt of the fingerprints. Within five working days
38 of the receipt of the criminal record or information regarding
39 criminal convictions from the Department of Justice, the
40 department shall notify the applicant of any criminal arrests or

1 convictions. If no arrests or convictions are recorded, the
2 Department of Justice shall provide the foster family home licensee
3 or the foster family agency with a statement of that fact concurrent
4 with providing the information to the State Department of Social
5 Services.

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

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

25 (e) (1) The State Department of Social Services shall not use
26 a record of arrest to deny, revoke, or terminate any application,
27 license, employment, or residence unless the department
28 investigates the incident and secures evidence, whether or not
29 related to the incident of arrest, that is admissible in an
30 administrative hearing to establish conduct by the person that may
31 pose a risk to the health and safety of any person who is or may
32 become a client.

33 (2) The department shall not issue a criminal record clearance
34 to a person who has been arrested for any crime specified in Section
35 290 of the Penal Code, or for violating Section 245, 273ab, or
36 273.5, or subdivision (b) of Section 273a, of the Penal Code, or,
37 prior to January 1, 1994, paragraph (2) of Section 273a of the Penal
38 Code, or for any crime for which the department is prohibited from
39 granting a criminal record exemption pursuant to subdivision (g),

1 prior to the department's completion of an investigation pursuant
2 to paragraph (1).

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

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

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

34 (g) (1) Except as otherwise provided in this paragraph with
35 respect to applicants who are foster care providers, after review
36 of the record, the director may grant an exemption from
37 disqualification for a license or special permit as specified in
38 paragraph (4) of subdivision (a), or for a license, special permit,
39 or certificate of approval as specified in paragraphs (4), (7), and
40 (8) of subdivision (d), or for employment, residence, or presence

1 in a community care facility as specified in paragraphs (3), (4),
2 and (5) of subdivision (c), if the director has substantial and
3 convincing evidence to support a reasonable belief that the
4 applicant and the person convicted of the crime, if other than the
5 applicant, are of good character as to justify issuance of the license
6 or special permit or granting an exemption for purposes of
7 subdivision (c). Except as otherwise provided in this subdivision,
8 an exemption shall not be granted pursuant to this subdivision if
9 the conviction was for any of the following offenses:

10 (A) (i) An offense specified in Section 220, 243.4, or 264.1,
11 subdivision (a) of Section 273a, or, prior to January 1, 1994,
12 paragraph (1) of Section 273a, Section 273ab, 273d, 288, or 289,
13 subdivision (c) of Section 290, or Section 368, of the Penal Code,
14 or was a conviction of another crime against an individual specified
15 in subdivision (c) of Section 667.5 of the Penal Code.

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

32 (B) A felony offense specified in Section 729 of the Business
33 and Professions Code or Section 206 or 215, subdivision (a) of
34 Section 347, subdivision (b) of Section 417, or subdivision (a) of
35 Section 451 of the Penal Code.

36 (C) (i) For a foster care provider applicant, an exemption shall
37 not be granted if that applicant, or any other person specified in
38 subdivision (b) in the applicant's home, has a felony conviction
39 for either of the following offenses:

1 (I) A felony conviction for child abuse or neglect, spousal abuse,
2 crimes against a child, including child pornography, or for a crime
3 involving violence, including rape, sexual assault, or homicide,
4 but not including other physical assault and battery. For purposes
5 of this subparagraph, a crime involving violence means an offense
6 described in paragraph (1) of subdivision (c) of Section 667.5 of
7 the Penal Code.

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

10 (ii) If a foster care provider applicant or any other person
11 specified in subdivision (b) in the applicant's home has been
12 convicted of any crime other than those listed in clause (i), the
13 department shall determine whether to grant an exemption, in light
14 of all relevant circumstances, including, but not limited to, the
15 following:

16 (I) The nature of the crime or crimes.

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

18 (III) The number of offenses.

19 (IV) Circumstances surrounding the commission of the crime
20 indicating the likelihood of future criminal activity.

21 (V) Activities since conviction, including employment,
22 participation in therapy, education, or treatment.

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

26 (VII) Any character references or other evidence submitted by
27 the applicant.

28 *(VIII) Whether the person convicted demonstrated honesty and*
29 *truthfulness concerning the crime or crimes during the application*
30 *and approval process.*

31 (2) The department shall not prohibit a person from being
32 employed or having contact with clients in a facility on the basis
33 of a denied criminal record exemption request or arrest information
34 unless the department complies with the requirements of Section
35 1558.

36 (h) (1) For purposes of compliance with this section, the
37 department may permit an individual to transfer a current criminal
38 record clearance, as defined in subdivision (a), from one facility
39 to another, as long as the criminal record clearance has been
40 processed through a state licensing district office, and is being

1 transferred to another facility licensed by a state licensing district
2 office. The request shall be in writing to the State Department of
3 Social Services, and shall include a copy of the person's driver's
4 license or valid identification card issued by the Department of
5 Motor Vehicles, or a valid photo identification issued by another
6 state or the United States government if the person is not a
7 California resident. Upon request of the licensee, who shall enclose
8 a self-addressed envelope for this purpose, the State Department
9 of Social Services shall verify whether the individual has a
10 clearance that can be transferred.

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

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

18 (A) A county office with department-delegated licensing
19 authority may accept a clearance or exemption from the
20 department.

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

23 (C) A county office with department-delegated licensing
24 authority may accept a clearance or exemption from any other
25 county office with department-delegated licensing authority.

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

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

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

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

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

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

7 (ii) The department shall notify the Department of Justice within
8 15 calendar days of the date on which a new county office receives
9 department-delegated licensing authority or a county's delegated
10 licensing authority is rescinded.

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

17 (5) (A) A county child welfare agency with authority to secure
18 clearances pursuant to Section 16504.5 of the Welfare and
19 Institutions Code and to grant exemptions pursuant to Section
20 361.4 of the Welfare and Institutions Code may accept a clearance
21 or exemption from another county with criminal record and
22 exemption authority pursuant to these sections.

23 (B) With respect to notifications issued by the Department of
24 Justice pursuant to Section 11105.2 of the Penal Code concerning
25 an individual whose criminal record clearance was originally
26 processed by a county child welfare agency with criminal record
27 clearance and exemption authority, the Department of Justice shall
28 process a request from a county child welfare agency with criminal
29 record and exemption authority to receive the notice only if all of
30 the following conditions are met:

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

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

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

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

1 (j) If a licensee or facility is required by law to deny employment
2 or to terminate employment of any employee based on written
3 notification from the state department that the employee has a prior
4 criminal conviction or is determined unsuitable for employment
5 under Section 1558, the licensee or facility shall not incur civil
6 liability or unemployment insurance liability as a result of that
7 denial or termination.

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

11 (l) Amendments to this section made in the 1999 portion of the
12 1999–2000 Regular Session shall be implemented commencing
13 60 days after the effective date of the act amending this section in
14 the 1999 portion of the 1999–2000 Regular Session, except that
15 those provisions for the submission of fingerprints for searching
16 the records of the Federal Bureau of Investigation shall be
17 implemented 90 days after the effective date of that act.

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

20 309. (a) Upon delivery to the social worker of a child who has
21 been taken into temporary custody under this article, the social
22 worker shall immediately investigate the circumstances of the child
23 and the facts surrounding the child’s being taken into custody and
24 attempt to maintain the child with the child’s family through the
25 provision of services. The social worker shall immediately release
26 the child to the custody of the child’s parent, guardian, or
27 responsible relative, regardless of the parent’s, guardian’s, or
28 relative’s immigration status, unless one or more of the following
29 conditions exist:

30 (1) The child has no parent, guardian, or responsible relative;
31 or the child’s parent, guardian, or responsible relative is not willing
32 to provide care for the child.

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

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

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

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

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

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

15 (d) (1) If an able and willing relative, as defined in Section 319,
16 or an able and willing nonrelative extended family member, as
17 defined in Section 362.7, is available and requests temporary
18 placement of the child pending the detention hearing, or after the
19 detention hearing and pending the dispositional hearing conducted
20 pursuant to Section 358, the county welfare department shall
21 initiate an assessment of the relative's or nonrelative extended
22 family member's suitability, which shall include an in-home
23 inspection to assess the safety of the home and the ability of the
24 relative or nonrelative extended family member to care for the
25 child's needs, and a consideration of the results of a criminal
26 records check conducted pursuant to subdivision (a) of Section
27 16504.5 and a check of allegations of prior child abuse or neglect
28 concerning the relative or nonrelative extended family member
29 and other adults in the home. A relative's identification card from
30 a foreign consulate or foreign passport shall be considered a valid
31 form of identification for conducting a criminal records check and
32 fingerprint clearance check under this subdivision. Upon
33 completion of this assessment, the child may be placed in the
34 assessed home. For purposes of this paragraph, and except for the
35 criminal records check conducted pursuant to subdivision (a) of
36 Section 16504.5, the standards used to determine suitability shall
37 be the same standards set forth in the regulations for the licensing
38 of foster family homes.

39 (2) Immediately following the placement of a child in the home
40 of a relative or a nonrelative extended family member, the county

1 welfare department shall evaluate and approve or deny the home
2 for purposes of AFDC-FC eligibility pursuant to Section 11402.
3 The standards used to evaluate and grant or deny approval of the
4 home of the relative and of the home of a nonrelative extended
5 family member, as described in Section 362.7, shall be the same
6 standards set forth in regulations for the licensing of foster family
7 homes which prescribe standards of safety and sanitation for the
8 physical plant and standards for basic personal care, supervision,
9 and services provided by the caregiver.

10 (3) To the extent allowed by federal law, as a condition of
11 receiving funding under Title IV-E of the federal Social Security
12 Act (42 U.S.C. Sec. 670 et seq.), if a relative or nonrelative
13 extended family member meets all other conditions for approval,
14 except for the receipt of the Federal Bureau of Investigation's
15 criminal history information for the relative or nonrelative extended
16 family member, and other adults in the home, as indicated, the
17 county welfare department may approve the home and document
18 that approval, if the relative or nonrelative extended family
19 member, and each adult in the home, has signed and submitted a
20 statement that he or she has never been convicted of a crime in the
21 United States, other than a traffic infraction as defined in paragraph
22 (1) of subdivision (a) of Section 42001 of the Vehicle Code. If,
23 after the approval has been granted, the department determines
24 that the relative or nonrelative extended family member or other
25 adult in the home has a criminal record, the approval may be
26 terminated.

27 (4) If the criminal records check indicates that the person has
28 been convicted of any of the following crimes, the child shall not
29 be placed in the home:

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

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

39 (5) *If the criminal records check indicates that the person has*
40 *been convicted of a misdemeanor for a crime involving child sexual*

1 *abuse, assault, or exploitation, as defined in Section 11165.1 of*
2 *the Penal Code, the child shall not be placed in the home until the*
3 *county agency and the court have considered the factors described*
4 *in paragraph (4) of subdivision (d) of Section 361.4 and determined*
5 *that the placement is in the best interests of the child.*

6 ~~(5)~~

7 (6) If the criminal records check indicates that the person has
8 been convicted of any crime other than a crime described in
9 paragraph ~~(4)~~, (4) or (5), the county social worker and the court
10 shall consider the criminal history in determining whether the
11 placement is in the best interests of the child.

12 (e) (1) If the child is removed, the social worker shall conduct,
13 within 30 days, an investigation in order to identify and locate all
14 grandparents, parents of a sibling of the child, if the parent has
15 legal custody of the sibling, adult siblings, and other adult relatives
16 of the child, as defined in paragraph (2) of subdivision (f) of
17 Section 319, including any other adult relatives suggested by the
18 parents. As used in this section, “sibling” means a person related
19 to the identified child by blood, adoption, or affinity through a
20 common legal or biological parent. The social worker shall provide
21 to all adult relatives who are located, except when that relative’s
22 history of family or domestic violence makes notification
23 inappropriate, within 30 days of removal of the child, written
24 notification and shall also, whenever appropriate, provide oral
25 notification, in person or by telephone, of all the following
26 information:

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

29 (B) An explanation of the various options to participate in the
30 care and placement of the child and support for the child’s family,
31 including any options that may be lost by failing to respond. The
32 notice shall provide information about providing care for the child
33 while the family receives reunification services with the goal of
34 returning the child to the parent or guardian, how to become a
35 foster family home or approved relative or nonrelative extended
36 family member as defined in Section 362.7, and additional services
37 and support that are available in out-of-home placements. The
38 notice shall also include information regarding the Kin-GAP
39 Program (Article 4.5 (commencing with Section 11360) of Chapter
40 2 of Part 3 of Division 9), the CalWORKs program for approved

1 relative caregivers (Chapter 2 (commencing with Section 11200)
 2 of Part 3 of Division 9), adoption, and adoption assistance (Chapter
 3 2.1 (commencing with Section 16115) of Part 4 of Division 9), as
 4 well as other options for contact with the child, including, but not
 5 limited to, visitation. The State Department of Social Services, in
 6 consultation with the County Welfare Directors Association of
 7 California and other interested stakeholders, shall develop the
 8 written notice.

9 (2) The social worker shall also provide the adult relatives
 10 notified pursuant to paragraph (1) with a relative information form
 11 to provide information to the social worker and the court regarding
 12 the needs of the child. The form shall include a provision whereby
 13 the relative may request the permission of the court to address the
 14 court, if the relative so chooses. The Judicial Council, in
 15 consultation with the State Department of Social Services and the
 16 County Welfare Directors Association of California, shall develop
 17 the form.

18 (3) The social worker shall use due diligence in investigating
 19 the names and locations of the relatives pursuant to paragraph (1),
 20 including, but not limited to, asking the child in an age-appropriate
 21 manner about relatives important to the child, consistent with the
 22 child’s best interest, and obtaining information regarding the
 23 location of the child’s adult relatives. Each county welfare
 24 department shall create and make public a procedure by which
 25 relatives of a child who has been removed from his or her parents
 26 or guardians may identify themselves to the county welfare
 27 department and be provided with the notices required by paragraphs
 28 (1) and (2).

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

31 361.4. (a) Prior to placing a child in the home of a relative, or
 32 the home of any prospective guardian or other person who is not
 33 a licensed or certified foster parent, the county social worker shall
 34 visit the home to ascertain the appropriateness of the placement.

35 (b) (1) Whenever a child may be placed in the home of a
 36 relative, or the home of any prospective guardian or other person
 37 who is not a licensed or certified foster parent, the court or county
 38 social worker placing the child shall cause a state-level criminal
 39 records check to be conducted by an appropriate government
 40 agency through the California Law Enforcement

1 Telecommunications System (CLETS) pursuant to Section 16504.5.
2 The criminal records check shall be conducted with regard to all
3 persons over 18 years of age living in the home, and on any other
4 person over 18 years of age, other than professionals providing
5 professional services to the child, known to the placing entity who
6 may have significant contact with the child, including any person
7 who has a familial or intimate relationship with any person living
8 in the home. A criminal records check may be conducted pursuant
9 to this section on any person over 14 years of age living in the
10 home who the county social worker believes may have a criminal
11 record. Within 10 calendar days following the criminal records
12 check conducted through the California Law Enforcement
13 Telecommunications System, the social worker shall ensure that
14 a fingerprint clearance check of the relative and any other person
15 whose criminal record was obtained pursuant to this subdivision
16 is initiated through the Department of Justice to ensure the accuracy
17 of the criminal records check conducted through the California
18 Law Enforcement Telecommunications System and shall review
19 the results of any criminal records check to assess the safety of the
20 home. The Department of Justice shall forward fingerprint requests
21 for federal-level criminal history information to the Federal Bureau
22 of Investigation pursuant to this section.

23 (2) An identification card from a foreign consulate or foreign
24 passport shall be considered a valid form of identification for
25 conducting a criminal records check and fingerprint clearance
26 check under this subdivision and under subdivision (c).

27 (c) Whenever a child may be placed in the home of a relative,
28 or a prospective guardian or other person who is not a licensed or
29 certified foster parent, the county social worker shall cause a check
30 of the Child Abuse Central Index pursuant to subdivision (a) of
31 Section 11170 of the Penal Code to be requested from the
32 Department of Justice. The Child Abuse Central Index check shall
33 be conducted on all persons over 18 years of age living in the
34 home. For any application received on or after January 1, 2008, if
35 any person in the household is 18 years of age or older and has
36 lived in another state in the preceding five years, the county social
37 worker shall check the other state's child abuse and neglect registry
38 to the extent required by federal law.

39 (d) (1) If the results of the California and federal criminal
40 records check indicates that the person has no criminal record, the

1 county social worker and court may consider the home of the
2 relative, prospective guardian, or other person who is not a licensed
3 or certified foster parent for placement of a child.

4 (2) If the criminal records check indicates that the person has
5 been convicted of any of the following crimes, the child shall not
6 be placed in the home:

7 (A) A felony conviction for child abuse or neglect, spousal
8 abuse, a crime against a child, including child pornography, or for
9 a crime involving violence, including rape, sexual assault, or
10 homicide, but not including other physical assault and battery. For
11 purposes of this subdivision, a “crime involving violence” means
12 an offense listed in subdivision (c) of Section 667.5 of the Penal
13 Code.

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

16 (3) *If the criminal records check indicates that the person has
17 been convicted of a misdemeanor for a crime involving child sexual
18 abuse, assault, or exploitation, as defined in Section 11165.1 of
19 the Penal Code, the child shall not be placed in the home until the
20 county agency and the court have considered the factors described
21 in paragraph (4) and determined that the placement is in the best
22 interests of the child.*

23 ~~(3)~~

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

29 (A) The nature of the ~~crimes~~ *crime* or crimes.

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

31 (C) The number of offenses.

32 (D) Circumstances surrounding the commission of the crime
33 indicating the likelihood of future criminal activity.

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

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

39 (G) Any character references or other evidence submitted by
40 the applicant.

1 (H) Whether the person convicted demonstrated honesty and
2 truthfulness concerning the crime or crimes during the application
3 and approval process.

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

7 (f) *The State Department of Social Services shall evaluate a*
8 *request from an Indian tribe to exempt a crime that is exemptible*
9 *under Section 1522 of the Health and Safety Code, if needed, to*
10 *allow placement into an Indian home that the tribe has designated*
11 *for placement under the federal Indian Child Welfare Act (25*
12 *U.S.C. Sec. 1901 et seq.). Once a tribe has elected to have the*
13 *exemption request reviewed by the State Department of Social*
14 *Services, the exemption decision may be made only by the*
15 *department. Nothing in this subdivision limits the duty of a county*
16 *social worker to evaluate the home for placement or to gather*
17 *information needed to evaluate an exemption request.*

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

20 16519.5. (a) The State Department of Social Services, in
21 consultation with county child welfare agencies, foster parent
22 associations, and other interested community parties, shall
23 implement a unified, family friendly, and child-centered resource
24 family approval process to replace the existing multiple processes
25 for licensing foster family homes, approving relatives and
26 nonrelative extended family members as foster care providers, and
27 approving adoptive families.

28 (b) (1) Counties shall be selected to participate on a voluntary
29 basis as early implementation counties for the purpose of
30 participating in the initial development of the approval process.
31 Early implementation counties shall be selected according to
32 criteria developed by the department in consultation with the
33 County Welfare Directors Association. In selecting the five early
34 implementation counties, the department shall promote diversity
35 among the participating counties in terms of size and geographic
36 location.

37 (2) Additional counties may participate in the early
38 implementation of the program upon authorization by the
39 department.

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

12 (A) An understanding of the safety, permanence, and well-being
13 needs of children who have been victims of child abuse and neglect,
14 and the capacity and willingness to meet those needs, including
15 the need for protection, and the willingness to make use of support
16 resources offered by the agency, or a support structure in place,
17 or both.

18 (B) An understanding of children’s needs and development,
19 effective parenting skills or knowledge about parenting, and the
20 capacity to act as a reasonable, prudent parent in day-to-day
21 decisionmaking.

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

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

27 (E) An ability and willingness to provide a family setting that
28 promotes normal childhood experiences that serves the needs of
29 the child.

30 (2) Subsequent to meeting the criteria set forth in this
31 subdivision and designation as a resource family, a resource family
32 shall be considered eligible to provide foster care for related and
33 unrelated children in out-of-home placement, shall be considered
34 approved for adoption or guardianship, and shall not have to
35 undergo any additional approval or licensure as long as the family
36 lives in a county participating in the program.

37 (3) Resource family approval means that the applicant
38 successfully meets the home environment assessment and
39 permanency assessment standards. This approval is in lieu of the

1 existing foster care license, relative or nonrelative extended family
2 member approval, and the adoption home study approval.

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

5 (5) Notwithstanding paragraphs (1) to (4), inclusive, the
6 department or county may cease any further review of an
7 application if the applicant has had a previous application denial
8 within the preceding year, or if the applicant has had a previous
9 rescission, revocation, or exemption denial or rescission by the
10 department or county within the preceding two years. However,
11 the department or county may continue to review an application
12 if it has determined that the reasons for the previous denial,
13 rescission, or revocation were due to circumstances and conditions
14 that either have been corrected or are no longer in existence. If an
15 individual was excluded from a resource family home or facility
16 licensed by the department, the department or county shall cease
17 review of the individual's application unless the excluded
18 individual has been reinstated pursuant to Section 11522 of the
19 Government Code. The cessation of review shall not constitute a
20 denial of the application for purposes of this section or any other
21 law.

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

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

27 (A) (i) Criminal records clearance of all adults residing in, or
28 regularly present in, the home, ~~pursuant to Section 8712 of the~~
29 ~~Family Code~~, utilizing a check of the Child Abuse Central Index
30 (CACI), and receipt of a fingerprint-based state and federal criminal
31 offender record information search response. The criminal history
32 information shall include subsequent notifications pursuant to
33 Section 11105.2 of the Penal Code.

34 (ii) If the criminal records check indicates that the person has
35 been convicted of either of the following crimes, home approval
36 shall be ~~denied~~ *denied*:

37 (I) A felony conviction for child abuse or neglect, spousal abuse,
38 or a crime against a child, including child pornography, or for a
39 crime involving violence, including rape, sexual assault, or
40 homicide, but not including other physical assault and battery. For

1 purposes of this subdivision, a “crime involving violence” means
 2 an offense listed in subdivision (c) of Section 667.5 of the Penal
 3 Code.

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

6 (iii) *If the criminal records check indicates that the person has*
 7 *been convicted of a misdemeanor for a crime involving child sexual*
 8 *abuse, assault, or exploitation, as defined in Section 11165.1 of*
 9 *the Penal Code, the child shall not be placed in the home until the*
 10 *county agency and the court have considered the factors described*
 11 *in paragraph (4) of subdivision (d) of Section 361.4 and determined*
 12 *that the placement is in the best interests of the child.*

13 ~~(iii)~~

14 (iv) If the criminal records check indicates that the person has
 15 been convicted of any crime other than a crime described in clause
 16 ~~(ii)~~, (ii) or (iii), the criminal history shall be considered *in the*
 17 *psychosocial assessment conducted pursuant to subparagraph (B)*
 18 *of paragraph (2) in determining whether the placement is in the*
 19 ~~best interests of the child~~, *to approve the home*, in light of all
 20 relevant circumstances, including, but not limited to, the following:

- 21 (I) The nature of the ~~crimes~~ *crime* or crimes.
- 22 (II) The length of time since the crime was committed.
- 23 (III) The number of offenses.
- 24 (IV) Circumstances surrounding the commission of the crime
 25 indicating the likelihood of future criminal activity.
- 26 (V) Activities since conviction, including employment,
 27 participation in therapy, education, or treatment.
- 28 (VI) Whether the person convicted has successfully completed
 29 probation or parole, obtained a certificate of rehabilitation, or been
 30 granted a pardon by the Governor.
- 31 (VII) Any character references or other evidence submitted by
 32 the applicant.

33 (VIII) Whether the person convicted demonstrated honesty and
 34 truthfulness concerning the crime or crimes during the application
 35 and approval process.

36 ~~(iv)~~

37 (v) The determination whether to approve the home pursuant
 38 to clause ~~(iii)~~ (iv) shall be reviewed by county staff at the
 39 supervisory or administrative level, for compliance with the
 40 approval standards set forth in this subdivision. This subdivision

1 does not affect the right of an applicant to request an administrative
2 hearing pursuant to Section 10950.

3 (B) Consideration of any substantiated allegations of child abuse
4 or neglect against either the applicant or any other adult residing
5 in the home.

6 (i) For public foster family agencies approving resource families,
7 the criminal records clearance process set forth in subparagraph
8 (A) shall be utilized.

9 (ii) For private foster family agencies approving resource
10 families, the criminal records clearance process set forth in
11 subparagraph (A) shall be utilized, but the Department of Justice
12 shall disseminate a fitness determination resulting from the federal
13 criminal offender record information search.

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

17 (D) In addition to the foregoing requirements, the resource
18 family home environment assessment standards shall also require
19 the following:

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

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

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

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

36 (A) The applicant shall complete caregiver training.

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

39 (ii) A caregiver risk assessment shall include, but shall not be
40 limited to, physical and mental health, alcohol and other substance

1 use and abuse, family and domestic violence, and the factors listed
2 in subparagraphs (A) and (D) of paragraph (1) of subdivision (c).
3 (C) The applicant shall complete any other activities that relate
4 to a resource family’s ability to achieve permanency with the child.
5 (e) (1) A child may be placed with a resource family that has
6 successfully completed the home environment assessment prior
7 to completion of a permanency assessment only if a compelling
8 reason for the placement exists based on the needs of the child.
9 (2) The permanency assessment shall be completed within 90
10 days of the child’s placement in the home, unless good cause exists
11 based upon the needs of the child.
12 (3) If additional time is needed to complete the permanency
13 assessment, the county shall document the extenuating
14 circumstances for the delay and generate a timeframe for the
15 completion of the permanency assessment.
16 (4) The county shall report to the department on a quarterly
17 basis the number of families with a child in an approved home
18 whose permanency assessment goes beyond 90 days and
19 summarize the reasons for these delays.
20 (5) A child may be placed with a relative, as defined in Section
21 319, or nonrelative extended family member, as defined in Section
22 362.7, prior to applying as a resource family only on an emergency
23 basis if all of the following requirements are met:
24 (A) Consideration of the results of a criminal records check
25 conducted pursuant to Section 16504.5 of the relative or nonrelative
26 extended family member and of every other adult in the home.
27 (B) Consideration of the results of the Child Abuse Central
28 Index (CACI) consistent with Section 1522.1 of the Health and
29 Safety Code of the relative or nonrelative extended family member,
30 and of every other adult in the home.
31 (C) The home and grounds are free of conditions that pose undue
32 risk to the health and safety of the child.
33 (D) For any placement made pursuant to this paragraph, the
34 county shall initiate the home environment assessment no later
35 than five business days after the placement, which shall include a
36 face-to-face interview with the resource family applicant and child.
37 (E) For any placement made pursuant to this paragraph,
38 AFDC-FC funding shall not be available until approval of the
39 resource family has been completed.

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

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

5 (1) Selecting early implementation counties, based on criteria
6 established by the department in consultation with the County
7 Welfare Directors Association.

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

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

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

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

24 (6) Adopting and requiring the use of standardized
25 documentation for the home environment and permanency
26 assessments of resource families.

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

29 (A) Investigating complaints of resource families.

30 (B) Developing and monitoring resource family corrective action
31 plans to correct identified deficiencies and to rescind resource
32 family approval if compliance with corrective action plans is not
33 achieved.

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

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

37 (B) Reviewing an adequate number of approved resource
38 families in each participating county to ensure that approval
39 standards are being properly applied. The review shall include
40 case file documentation, and may include onsite inspection of

1 individual resource families. The review shall occur on an annual
2 basis, and more frequently if the department becomes aware that
3 a participating county is experiencing a disproportionate number
4 of complaints against individual resource family homes.

5 (C) Reviewing county reports of serious complaints and
6 incidents involving approved resource families, as determined
7 necessary by the department. The department may conduct an
8 independent review of the complaint or incident and change the
9 findings depending on the results of its investigation.

10 (D) Investigating unresolved complaints against participating
11 counties.

12 (E) Requiring corrective action of counties that are not in full
13 compliance with the terms and conditions of the program.

14 (9) Updating the Legislature on the early implementation phase
15 of the program, including the status of implementation, successes,
16 and challenges during the early implementation phase, and relevant
17 available data, including resource family satisfaction.

18 (10) Implementing due process procedures, including all of the
19 following:

20 (A) Providing a statewide fair hearing process for denials,
21 rescissions, or exclusion actions.

22 (B) Amending the department’s applicable state hearing
23 procedures and regulations or using the Administrative Procedure
24 Act, when applicable, as necessary for the administration of the
25 program.

26 (g) Counties participating in the program shall be responsible
27 for all of the following:

28 (1) Submitting an implementation plan, entering into terms and
29 conditions for participation in the program, consulting with the
30 county probation department in the development of the
31 implementation plan, training appropriate staff, and accepting
32 applications from resource families within the timeframes
33 established by the department.

34 (2) Complying with the written directives pursuant to paragraph
35 (4) of subdivision (f).

36 (3) Implementing the requirements for resource family approval
37 and utilizing standardized documentation established by the
38 department.

- 1 (4) Ensuring staff have the education and experience necessary
2 to complete the home environment and psychosocial assessments
3 competently.
- 4 (5) (A) Taking the following actions, as applicable:
5 (i) Approving or denying resource family applications.
6 (ii) Rescinding approvals of resource families.
7 (iii) Excluding a resource family parent or other individual from
8 presence in a resource family home, consistent with the established
9 standard.
- 10 (iv) Issuing a temporary suspension order that suspends the
11 resource family approval prior to a hearing when urgent action is
12 needed to protect a child or nonminor dependent from physical or
13 mental abuse, abandonment, or any other substantial threat to
14 health or safety, consistent with the established standard.
- 15 (B) Providing a resource family parent, applicant, or excluded
16 individual requesting review of that decision with due process
17 pursuant to the department's statutes, regulations, and written
18 directives.
- 19 (C) Notifying the department of any decisions denying a
20 resource family's application or rescinding the approval of a
21 resource family, excluding an individual, or taking other
22 administrative action.
- 23 (D) Issuing a temporary suspension order that suspends the
24 resource family approval prior to a hearing, when urgent action is
25 needed to protect a child or nonminor dependent who is or may
26 be placed in the home from physical or mental abuse, abandonment,
27 or any other substantial threat to health or safety.
- 28 (6) Updating resource family approval annually.
- 29 (7) Monitoring resource families through all of the following:
30 (A) Ensuring that social workers who identify a condition in
31 the home that may not meet the approval standards set forth in
32 subdivision (d) while in the course of a routine visit to children
33 placed with a resource family take appropriate action as needed.
- 34 (B) Requiring resource families to comply with corrective action
35 plans as necessary to correct identified deficiencies. If corrective
36 action is not completed as specified in the plan, the county may
37 rescind the resource family approval.
- 38 (C) Requiring resource families to report to the county child
39 welfare agency any incidents consistent with the reporting
40 requirements for licensed foster family homes.

1 (8) Investigating all complaints against a resource family and
2 taking action as necessary. This shall include investigating any
3 incidents reported about a resource family indicating that the
4 approval standard is not being maintained.

5 (A) The child's social worker shall not conduct the formal
6 investigation into the complaint received concerning a family
7 providing services under the standards required by subdivision
8 (d). To the extent that adequate resources are available, complaints
9 shall be investigated by a worker who did not initially conduct the
10 home environment or psychosocial assessments.

11 (B) Upon conclusion of the complaint investigation, the final
12 disposition shall be reviewed and approved by a supervising staff
13 member.

14 (C) The department shall be notified of any serious incidents
15 or serious complaints or any incident that falls within the definition
16 of Section 11165.5 of the Penal Code. If those incidents or
17 complaints result in an investigation, the department shall also be
18 notified as to the status and disposition of that investigation.

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

20 (10) Assessing county performance in related areas of the
21 California Child and Family Services Review System, and
22 remedying problems identified.

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

26 (12) Ensuring resource family applicants and resource families
27 have the necessary knowledge, skills, and abilities to support
28 children in foster care by completing caregiver training. The
29 training should include a curriculum that supports the role of a
30 resource family in parenting vulnerable children and should be
31 ongoing in order to provide resource families with information on
32 trauma-informed practices and requirements and other topics within
33 the foster care system.

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

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

38 (B) The effects of trauma, including grief and loss, and child
39 abuse and neglect, on child development and behavior, and

1 methods to behaviorally support children impacted by that trauma
2 or child abuse and neglect.

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

4 (D) Health issues in foster care.

5 (E) Accessing services and supports to address education needs,
6 physical, mental, and behavioral health, and substance use
7 disorders, including culturally relevant services.

8 (F) The rights of a child in foster care, and the resource family’s
9 responsibility to safeguard those rights, including the right to have
10 fair and equal access to all available services, placement, care,
11 treatment, and benefits, and to not be subjected to discrimination
12 or harassment on the basis of actual or perceived race, ethnic group
13 identification, ancestry, national origin, color, religion, sex, sexual
14 orientation, gender identity, mental or physical disability, or HIV
15 status.

16 (G) Cultural needs of children, including instruction on cultural
17 competency and sensitivity, and related best practices for providing
18 adequate care for children or youth across diverse ethnic and racial
19 backgrounds, as well as children or youth identifying as lesbian,
20 gay, bisexual, or transgender.

21 (H) Basic instruction on existing laws and procedures regarding
22 the safety of foster youth at school.

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

24 (J) Child and adolescent development, including sexual
25 orientation, gender identity, and expression.

26 (K) The role of resource families, including working
27 cooperatively with the child welfare or probation agency, the
28 child’s family, and other service providers implementing the case
29 plan.

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

32 (M) A resource family’s responsibility to act as a reasonable
33 and prudent parent, and to provide a family setting that promotes
34 normal childhood experiences and that serves the needs of the
35 child.

36 (N) An overview of the specialized training identified in
37 subdivision (h).

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

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

6 (1) Understanding how to use best practices for providing care
7 and supervision to commercially sexually exploited children.

8 (2) Understanding how to use best practices for providing care
9 and supervision to lesbian, gay, bisexual, and transgender children.

10 (3) Understanding the requirements and best practices regarding
11 psychotropic medications, including, but not limited to, court
12 authorization, benefits, uses, side effects, interactions, assistance
13 with self-administration, misuse, documentation, storage, and
14 metabolic monitoring of children prescribed psychotropic
15 medications.

16 (4) Understanding the federal Indian Child Welfare Act (25
17 U.S.C. Sec. 1901 et seq.), its historical significance, the rights of
18 children covered by the act, and the best interests of Indian
19 children, including the role of the caregiver in supporting culturally
20 appropriate, child-centered practices that respect Native American
21 history, culture, retention of tribal membership and connection to
22 the tribal community and traditions.

23 (5) Understanding how to use best practices for providing care
24 and supervision to nonminor dependents.

25 (6) Understanding how to use best practices for providing care
26 and supervision to children with special health care needs.

27 (7) Understanding the different permanency options and the
28 services and benefits associated with the options.

29 (i) Nothing in this section shall preclude a county or a foster
30 family agency from requiring resource family training in excess
31 of the requirements in this section.

32 (j) (1) Approved relatives and nonrelative extended family
33 members, licensed foster family homes, or approved adoptive
34 homes that have completed the license or approval process prior
35 to full implementation of the program shall not be considered part
36 of the program. The otherwise applicable assessment and oversight
37 processes shall continue to be administered for families and
38 facilities not included in the program.

39 (2) Upon implementation of the program in a county, that county
40 may not accept new applications for the licensure of foster family

1 homes, the approval of relative and nonrelative extended family
2 members, or the approval of prospective adoptive homes.

3 (k) The department may waive regulations that pose a barrier
4 to implementation and operation of this program. The waiver of
5 any regulations by the department pursuant to this section shall
6 apply to only those counties or foster family agencies participating
7 in the program and only for the duration of the program.

8 (l) Resource families approved under initial implementation of
9 the program, who move within an early implementation county or
10 who move to another early implementation county, shall retain
11 their resource family status if the new building and grounds,
12 outdoor activity areas, and storage areas meet home environment
13 standards. The State Department of Social Services or early
14 implementation county may allow a program-affiliated individual
15 to transfer his or her subsequent arrest notification if the individual
16 moves from one early implementation county to another early
17 implementation county, as specified in subdivision (g) of Section
18 1522 of the Health and Safety Code.

19 (m) (1) The approval of a resource family who moves to a
20 nonparticipating county remains in full force and effect pending
21 a determination by the county approval agency or the department,
22 as appropriate, whether the new building and grounds and storage
23 areas meet applicable standards, and whether all adults residing
24 in the home have a criminal records clearance ~~pursuant to Section~~
25 ~~8712 of the Family Code.~~ *approval or exemption pursuant to*
26 *paragraph (1) of subdivision (d) of, or subparagraph (C) of*
27 *paragraph (1) of subdivision (g) of, Section 1522 of the Health*
28 *and Safety Code.* Upon this determination, the nonparticipating
29 county shall either approve the family as a relative or nonrelative
30 extended family member, as applicable, or the department shall
31 license the family as a foster family home.

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

38 (3) A program-affiliated individual who moves to a
39 nonparticipating county may not transfer his or her subsequent

1 arrest notification from a participating county to the
2 nonparticipating county.

3 (n) Implementation of the program shall be contingent upon the
4 continued availability of federal Social Security Act Title IV-E
5 (42 U.S.C. Sec. 670) funds for costs associated with placement of
6 children with resource families assessed and approved under the
7 program.

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

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

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

21 (1) Licensure requirements set forth under the *California*
22 *Community Care Facilities Act, commencing Act (commencing*
23 *with Section 1500 of the Health and Safety Code, Code)* and all
24 regulations promulgated thereto.

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

28 (3) Adoptions approval and reporting requirements set forth
29 under Section 8712 of the Family Code, and all regulations
30 promulgated thereto.

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

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

37 (A) A detailed description of the resource family approval
38 program.

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

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

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

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

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

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

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

25 (A) All licensed foster family homes that did not have a child
26 in placement at any time, for any length of time, between January
27 1, 2017, and December 31, 2017, inclusive, shall forfeit the license
28 by operation of law on January 1, 2018.

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

37 (s) On and after January 1, 2017, all licensed foster family
38 agencies shall approve resource families in lieu of certifying foster
39 homes. A foster family agency or a short-term residential treatment
40 center pursuant to subdivision (b) of Section 11462 shall require

1 applicants and resource families to meet the resource family
2 approval standards and requirements set forth in this chapter and
3 in the written directives adopted pursuant to this chapter prior to
4 approval and in order to maintain approval.

5 (t) The department may establish participation conditions, and
6 select and authorize foster family agencies that voluntarily submit
7 implementation plans and revised plans of operation in accordance
8 with requirements established by the department, to approve
9 resource families in lieu of certifying foster homes.

10 (1) Notwithstanding any other law, a participating foster family
11 agency shall require resource families to meet and maintain the
12 resource family approval standards and requirements set forth in
13 this chapter and in the written directives adopted hereto prior to
14 approval and in order to maintain approval.

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

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

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

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

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