

AMENDED IN ASSEMBLY JANUARY 8, 1998

CALIFORNIA LEGISLATURE—1997–98 REGULAR SESSION

ASSEMBLY BILL

No. 1091

**Introduced by Committee on Judiciary (Escutia (Chair),
Morrow (Vice Chair), Alby, Aroner, Baugh, Figueroa,
Keeley, Kuehl, Ortiz, Pacheco, Shelley, and Villaraigosa)**

February 27, 1997

~~An act to amend Section 366.26 of the Welfare and Institutions Code, relating to minors. An act to amend Sections 300, 300.1, 300.5, 301, 302, 304, 309, 319, 325, 328, 329, 331, 331.5, 332, 341, 358, 358.1, 360, 361.2, 362, 362.8, 364, 365, 366.1, 366.21, 366.22, 366.26, 366.3, 367, 368, 369, 370, 380, 386, and 387 of, and to repeal Sections 332.5, 351.5, 353.5, 360.5, 362.5, 366.2, and 366.25 of, the Welfare and Institutions Code, relating to dependent children.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 1091, as amended, Committee on Judiciary. ~~Minors~~
Dependent children.

Existing law prescribes the jurisdiction of the juvenile court in cases in which a child has been removed from the custody of a parent or guardian on the basis of abuse or neglect, and specifies the procedures for these cases. Existing law directs the probation officer to provide various services to these children and their families, and to provide information to, and carry out the orders of, the court in these matters, as specified.

This bill would direct the social worker, rather than the probation officer, to provide many of these services, as

specified. By imposing new duties on county social workers, the bill would create a state-mandated local program. The bill would make other technical changes to various provisions.

Existing law specifies the procedures to be followed in the case of a minor who has been adjudged a dependent child of the court to determine the temporary placement of the child, or to permanently terminate parental rights or establish a legal guardianship for the minor. Existing law specifies different procedures and criteria in these cases depending upon whether the minor became a dependent child of the court prior to January 1, 1989, or on or after January 1, 1989.

This bill would make the criteria currently applicable to a minor who became a dependent child of the court on or after January 1, 1989, applicable regardless of when the minor became a dependent child of the juvenile court.

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, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

~~Under existing law, for minors adjudged dependent children of the juvenile court on or after January 1, 1989, specified procedures are required to be followed for permanently terminating parental rights or establishing the legal guardianship while the minor is a dependent child of the juvenile court.~~

~~This bill would delete the requirement that the adjudication of dependency occur on or after January 1, 1989.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. ~~Section 366.26 of the Welfare and~~
2



1 SECTION 1. Section 300 of the Welfare and
2 Institutions Code is amended to read:

3 300. Any ~~minor~~ child who comes within any of the
4 following descriptions is within the jurisdiction of the
5 juvenile court which may adjudge that person to be a
6 dependent child of the court:

7 (a) The ~~minor~~ child has suffered, or there is a
8 substantial risk that the ~~minor~~ child will suffer, serious
9 physical harm inflicted nonaccidentally upon the ~~minor~~
10 child by the ~~minor's~~ child's parent or guardian. For the
11 purposes of this subdivision, a court may find there is a
12 substantial risk of serious future injury based on the
13 manner in which a less serious injury was inflicted, a
14 history of repeated inflictions of injuries on the ~~minor~~
15 child or the ~~minor's~~ child's siblings, or a combination of
16 these and other actions by the parent or guardian which
17 indicate the child is at risk of serious physical harm. For
18 purposes of this subdivision, "serious physical harm" does
19 not include reasonable and age-appropriate spanking to
20 the buttocks where there is no evidence of serious
21 physical injury.

22 (b) The ~~minor~~ child has suffered, or there is a
23 substantial risk that the ~~minor~~ child will suffer, serious
24 physical harm or illness, as a result of the failure or
25 inability of his or her parent or guardian to adequately
26 supervise or protect the ~~minor~~ child, or the willful or
27 negligent failure of the ~~minor's~~ child's parent or guardian
28 to adequately supervise or protect the ~~minor~~ child from
29 the conduct of the custodian with whom the ~~minor~~ child
30 has been left, or by the willful or negligent failure of the
31 parent or guardian to provide the ~~minor~~ child with
32 adequate food, clothing, shelter, or medical treatment, or
33 by the inability of the parent or guardian to provide
34 regular care for the ~~minor~~ child due to the parent's or
35 guardian's mental illness, developmental disability, or
36 substance abuse. No ~~minor~~ child shall be found to be a
37 person described by this subdivision solely due to the lack
38 of an emergency shelter for the family. Whenever it is
39 alleged that a ~~minor~~ child comes within the jurisdiction
40 of the court on the basis of the parent's or guardian's



1 willful failure to provide adequate medical treatment or
2 specific decision to provide spiritual treatment through
3 prayer, the court shall give deference to the parent's or
4 guardian's medical treatment, nontreatment, or spiritual
5 treatment through prayer alone in accordance with the
6 tenets and practices of a recognized church or religious
7 denomination, by an accredited practitioner thereof, and
8 shall not assume jurisdiction unless necessary to protect
9 the ~~minor~~ *child* from suffering serious physical harm or
10 illness. In making its determination, the court shall
11 consider (1) the nature of the treatment proposed by the
12 parent or guardian, (2) the risks to the ~~minor~~ *child* posed
13 by the course of treatment or nontreatment proposed by
14 the parent or guardian, (3) the risk, if any, of the course
15 of treatment being proposed by the petitioning agency,
16 and (4) the likely success of the courses of treatment or
17 nontreatment proposed by the parent or guardian and
18 agency. The ~~minor~~ *child* shall continue to be a dependent
19 child pursuant to this subdivision only so long as is
20 necessary to protect the ~~minor~~ *child* from risk of suffering
21 serious physical harm or illness.

22 (c) The ~~minor~~ *child* is suffering serious emotional
23 damage, or is at substantial risk of suffering serious
24 emotional damage, evidenced by severe anxiety,
25 depression, withdrawal, or untoward aggressive behavior
26 toward self or others, as a result of the conduct of the
27 parent or guardian or who has no parent or guardian
28 capable of providing appropriate care. No ~~minor~~ *child*
29 shall be found to be a person described by this subdivision
30 if the willful failure of the parent or guardian to provide
31 adequate mental health treatment is based on a sincerely
32 held religious belief and if a less intrusive judicial
33 intervention is available.

34 (d) The ~~minor~~ *child* has been sexually abused, or there
35 is a substantial risk that the ~~minor~~ *child* will be sexually
36 abused, as defined in Section 11165.1 of the Penal Code,
37 by his or her parent or guardian or a member of his or her
38 household, or the parent or guardian has failed to
39 adequately protect the ~~minor~~ *child* from sexual abuse
40 when the parent or guardian knew or reasonably should



1 have known that the ~~minor~~ *child* was in danger of sexual
2 abuse.

3 (e) The ~~minor~~ *child* is under the age of five and has
4 suffered severe physical abuse by a parent, or by any
5 person known by the parent, if the parent knew or
6 reasonably should have known that the person was
7 physically abusing the ~~minor~~ *child*. For the purposes of
8 this subdivision, “severe physical abuse” means any of the
9 following: any single act of abuse which causes physical
10 trauma of sufficient severity that, if left untreated, would
11 cause permanent physical disfigurement, permanent
12 physical disability, or death; any single act of sexual abuse
13 which causes significant bleeding, deep bruising, or
14 significant external or internal swelling; or more than one
15 act of physical abuse, each of which causes bleeding, deep
16 bruising, significant external or internal swelling, bone
17 fracture, or unconsciousness; or the willful, prolonged
18 failure to provide adequate food. A ~~minor~~ *child* may not
19 be removed from the physical custody of his or her parent
20 or guardian on the basis of a finding of severe physical
21 abuse unless the ~~probation officer~~ *social worker* has made
22 an allegation of severe physical abuse pursuant to Section
23 332.

24 (f) The ~~minor’s~~ *child’s* parent or guardian caused the
25 death of another ~~minor~~ *child* through abuse or neglect.

26 (g) The ~~minor~~ *child* has been left without any
27 provision for support; the ~~minor’s~~ *child’s* parent has been
28 incarcerated or institutionalized and cannot arrange for
29 the care of the ~~minor~~ *child*; or a relative or other adult
30 custodian with whom the ~~minor~~ *child* resides or has been
31 left is unwilling or unable to provide care or support for
32 the ~~minor~~ *child*, the whereabouts of the parent is
33 unknown, and reasonable efforts to locate the parent
34 have been unsuccessful.

35 (h) The ~~minor~~ *child* has been freed for adoption by
36 one or both parents for 12 months by either
37 relinquishment or termination of parental rights or an
38 adoption petition has not been granted.

39 (i) The ~~minor~~ *child* has been subjected to an act or acts
40 of cruelty by the parent or guardian or a member of his



1 or her household, or the parent or guardian has failed to
2 adequately protect the ~~minor~~ *child* from an act or acts of
3 cruelty when the parent or guardian knew or reasonably
4 should have known that the ~~minor~~ *child* was in danger of
5 being subjected to an act or acts of cruelty.

6 (j) The ~~minor's~~ *child's* sibling has been abused or
7 neglected, as defined in subdivision (a), (b), (d), (e), or
8 (i), and there is a substantial risk that the ~~minor~~ *child* will
9 be abused or neglected, as defined in those subdivisions.
10 The court shall consider the circumstances surrounding
11 the abuse or neglect of the sibling, the age and gender of
12 each ~~minor~~ *child*, the nature of the abuse or neglect of the
13 sibling, the mental condition of the parent or guardian,
14 and any other factors the court considers probative in
15 determining whether there is a substantial risk to the
16 ~~minor~~ *child*.

17 It is the intent of the Legislature that nothing in this
18 section disrupt the family unnecessarily or intrude
19 inappropriately into family life, prohibit the use of
20 reasonable methods of parental discipline, or prescribe a
21 particular method of parenting. Further, nothing in this
22 section is intended to limit the offering of voluntary
23 services to those families in need of assistance but who do
24 not come within the descriptions of this section. To the
25 extent that savings accrue to the state from child welfare
26 services funding obtained as a result of the enactment of
27 the act that enacted this section, those savings shall be
28 used to promote services which support family
29 maintenance and family reunification plans, such as
30 client transportation, out-of-home respite care, parenting
31 training, and the provision of temporary or emergency
32 in-home caretakers and persons teaching and
33 demonstrating homemaking skills. The Legislature
34 further declares that a physical disability, such as
35 blindness or deafness, is no bar to the raising of happy and
36 well-adjusted children and that a court's determination
37 pursuant to this section shall center upon whether a
38 parent's disability prevents him or her from exercising
39 care and control.



1 As used in this section “guardian” means the legal
2 guardian of the ~~minor~~ child.

3 *SEC. 2. Section 300.1 of the Welfare and Institutions*
4 *Code is amended to read:*

5 300.1. Notwithstanding subdivision (e) of Section 361
6 and Section 16507, family reunification services shall not
7 be provided to a ~~minor~~ child adjudged a dependent
8 pursuant to subdivision (h) of Section 300.

9 *SEC. 3. Section 300.5 of the Welfare and Institutions*
10 *Code is amended to read:*

11 300.5. In any case in which a ~~minor~~ child is alleged to
12 come within the provisions of Section 300 on the basis that
13 he or she is in need of medical care, the court, in making
14 ~~such~~ that finding, shall give consideration to any
15 treatment being provided to the ~~minor~~ child by spiritual
16 means through prayer alone in accordance with the
17 tenets and practices of a recognized church or religious
18 denomination by an accredited practitioner thereof.

19 *SEC. 4. Section 301 of the Welfare and Institutions*
20 *Code is amended to read:*

21 301. (a) In any case in which a ~~probation-officer~~ social
22 worker after investigation of an application for petition or
23 other investigation he or she is authorized to make,
24 determines that a ~~minor~~ child is within the jurisdiction of
25 the juvenile court or will probably soon be within that
26 jurisdiction, the ~~probation-officer~~ social worker may, in
27 lieu of filing a petition or subsequent to dismissal of a
28 petition already filed, and with consent of the ~~minor's~~
29 child's parent or guardian, undertake a program of
30 supervision of the ~~minor~~ child. If a program of supervision
31 is undertaken, the ~~probation-officer~~ social worker shall
32 attempt to ameliorate the situation which brings the
33 ~~minor~~ child within, or creates the probability that the
34 ~~minor~~ child will be within, the jurisdiction of Section 300
35 by providing or arranging to contract for all appropriate
36 child welfare services pursuant to Sections 16506 and
37 16507.3, within the time periods specified in those
38 sections. No further child welfare services shall be
39 provided subsequent to these time limits. If the family has
40 refused to cooperate with the services being provided,



1 the ~~probation officer~~ *social worker* may file a petition
2 with the juvenile court pursuant to Section 332. Nothing
3 in this section shall be construed to prevent the ~~probation~~
4 ~~officer~~ *social worker* from filing a petition pursuant to
5 Section 332 when otherwise authorized by law.

6 (b) The program of supervision of the ~~minor child~~
7 undertaken pursuant to this section may call for the
8 ~~minor child~~ to obtain care and treatment for the misuse
9 of, or addiction to, controlled substances from a county
10 mental health service or other appropriate community
11 agency.

12 ~~(e) Probation departments in counties designated by~~
13 ~~the department as pilot projects for in-home care~~
14 ~~programs, pursuant to Section 18964, may place, and shall~~
15 ~~designate, a projected number of children to be referred~~
16 ~~each year in these projects.~~

17 *SEC. 5. Section 302 of the Welfare and Institutions*
18 *Code is amended to read:*

19 302. (a) A juvenile court may assume jurisdiction
20 over a child described in Section 300 regardless of
21 whether the child was in the physical custody of both
22 parents or was in the sole legal or physical custody of only
23 one parent at the time that the events or conditions
24 occurred that brought the child within the jurisdiction of
25 the court.

26 (b) Unless their parental rights have been terminated,
27 both parents shall be notified of all proceedings involving
28 the child. In any case where the ~~probation officer~~ *social*
29 *worker* is required to provide a parent or guardian with
30 notice of a proceeding at which the ~~probation officer~~
31 *social worker* intends to present a report, the ~~probation~~
32 ~~officer~~ *social worker* shall also provide both parents,
33 whether custodial or noncustodial, or any guardian, or the
34 counsel for the parent or guardian a copy of the report
35 prior to the hearing, either personally or by first-class
36 mail. The ~~probation officer~~ *social worker* shall not charge
37 any fee for providing a copy of a report required by this
38 subdivision. The ~~probation officer~~ *social worker* shall
39 keep confidential the address of any parent who is known
40 to be the victim of domestic violence.



1 (c) When a ~~minor~~ *child* is adjudged a dependent of the
2 juvenile court, any issues regarding custodial rights
3 between his or her parents shall be determined solely by
4 the juvenile court, as specified in Sections 304, 361.2, and
5 362.4, so long as the ~~minor~~ *child* remains a dependent of
6 the juvenile court.

7 *SEC. 6. Section 304 of the Welfare and Institutions*
8 *Code is amended to read:*

9 304. After a petition has been filed pursuant to Section
10 311, and until the time that the petition is dismissed or
11 dependency is terminated, no other division of any
12 superior court may hear proceedings pursuant to Part 2
13 (commencing with Section 3020) of Division 8 of the
14 Family Code regarding the custody of the child or
15 proceedings under Part 2 (commencing with Section
16 1500) of Division 4 of the Probate Code, except as
17 otherwise authorized in this code, regarding the
18 establishment of a guardianship for the child. While the
19 child is under the jurisdiction of the juvenile court all
20 issues regarding his or her custody shall be heard by the
21 juvenile court. In deciding issues between the parents or
22 between a parent and a guardian regarding custody of a
23 ~~minor~~ *child* who has been adjudicated a dependent of the
24 juvenile court, the juvenile court may review any records
25 that would be available to the domestic relations division
26 of a superior court hearing ~~such a~~ *that* matter. The
27 juvenile court, on its own motion, may issue an order as
28 provided for in Section 213.5, or as described in Section
29 6218 of the Family Code. The Judicial Council shall adopt
30 forms for these restraining orders. These form orders shall
31 not be confidential and shall be enforceable in the same
32 manner as any other order issued pursuant to Division 10
33 (commencing with Section 6200) of the Family Code.

34 This section shall not be construed to divest the
35 domestic relations division of a superior court from
36 hearing any issues regarding the custody of a ~~minor~~ *child*
37 when that ~~minor~~ *child* is no longer a dependent of the
38 juvenile court.

39 *SEC. 7. Section 309 of the Welfare and Institutions*
40 *Code is amended to read:*



1 309. (a) Upon delivery to the ~~probation officer~~ *social*
 2 *worker* of a minor who has been taken into temporary
 3 custody under this article, the ~~probation officer~~ *social*
 4 *worker* shall immediately investigate the circumstances
 5 of the minor and the facts surrounding the minor's being
 6 taken into custody and attempt to maintain the minor
 7 with the minor's family through the provision of services.
 8 The ~~probation officer~~ *social worker* shall immediately
 9 release the minor to the custody of the minor's parent,
 10 guardian, or responsible relative unless one or more of the
 11 following conditions exist:

12 (1) The minor has no parent, guardian, or responsible
 13 relative; or the minor's parent, guardian, or responsible
 14 relative is not willing to provide care for the minor.

15 (2) Continued detention of the minor is a matter of
 16 immediate and urgent necessity for the protection of the
 17 minor and there are no reasonable means by which the
 18 minor can be protected in his or her home or the home
 19 of a responsible relative.

20 (3) There is substantial evidence that a parent,
 21 guardian, or custodian of the minor is likely to flee the
 22 jurisdiction of the court.

23 (4) The minor has left a placement in which he or she
 24 was placed by the juvenile court.

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

34 (c) If the minor is not released to his or her parent or
 35 guardian, the minor shall be deemed detained for
 36 purposes of this chapter.

37 (d) If an able and willing relative, as defined in Section
 38 319, is available and requests temporary placement of the
 39 child pending the detention hearing, the social worker
 40 shall initiate an emergency assessment of the relative's



1 suitability, which shall include an in-home visit to assess
2 the safety of the home and the ability of the relative to
3 care for the child on a temporary basis, and a
4 consideration of the results of a criminal records check
5 and allegations of prior child abuse or neglect concerning
6 the relative and other adults in the home. The results of
7 the assessment shall be provided to the court in the social
8 worker's report as required by Section 319.

9 *SEC. 8. Section 319 of the Welfare and Institutions*
10 *Code is amended to read:*

11 319. At the initial petition hearing the court shall
12 examine the minor's parents, guardians, or other persons
13 having relevant knowledge and hear the relevant
14 evidence as the minor, the minor's parents or guardians,
15 the petitioner, or their counsel desires to present. The
16 court may examine the minor, as provided in Section 350.

17 The ~~probation officer~~ *social worker* shall report to the
18 court on the reasons why the minor has been removed
19 from the parent's custody; the need, if any, for continued
20 detention; on the available services and the referral
21 methods to those services which could facilitate the
22 return of the minor to the custody of the minor's parents
23 or guardians; and whether there are any relatives who are
24 able and willing to take temporary custody of the minor.
25 The court shall order the release of the minor from
26 custody unless a prima facie showing has been made that
27 the minor comes within Section 300 and any of the
28 following circumstances exist:

29 (a) There is a substantial danger to the physical health
30 of the minor or the minor is suffering severe emotional
31 damage, and there are no reasonable means by which the
32 minor's physical or emotional health may be protected
33 without removing the minor from the parents' or
34 guardians' physical custody.

35 (b) There is substantial evidence that a parent,
36 guardian, or custodian of the minor is likely to flee the
37 jurisdiction of the court.

38 (c) The minor has left a placement in which he or she
39 was placed by the juvenile court.



1 (d) The minor indicates an unwillingness to return
2 home, if the minor has been physically or sexually abused
3 by a person residing in the home.

4 The court shall also make a determination on the
5 record as to whether reasonable efforts were made to
6 prevent or eliminate the need for removal of the minor
7 from his or her home, pursuant to subdivision (b) of
8 Section 306, and whether there are available services
9 which would prevent the need for further detention.
10 Services to be considered for purposes of making this
11 determination are case management, counseling,
12 emergency shelter care, emergency in-home caretakers,
13 out-of-home respite care, teaching and demonstrating
14 homemakers, parenting training, transportation, and any
15 other child welfare services authorized by the State
16 Department of Social Services pursuant to Chapter 5
17 (commencing with Section 16500) of Part 4 of Division 9.
18 The court shall also review whether the social worker has
19 considered whether a referral to public assistance
20 services pursuant to Chapter 2 (commencing with
21 Section 11200) of Part 3, Chapter 7 (commencing with
22 Section 14000) of Part 3, Chapter 1 (commencing with
23 Section 17000) of Part 5, and Chapter 10 (commencing
24 with Section 18900) of Part 6, of Division 9 would have
25 eliminated the need to take temporary custody of the
26 minor or would prevent the need for further detention.
27 If the minor can be returned to the custody of his or her
28 parent or guardian through the provision of those
29 services, the court shall place the minor with his or her
30 parent or guardian and order that the services shall be
31 provided. If the minor cannot be returned to the custody
32 of his or her parent or guardian, the court shall determine
33 if there is a relative who is able and willing to care for the
34 child. Where the first contact with the family has
35 occurred during an emergency situation in which the
36 child could not safely remain at home, even with
37 reasonable services being provided, the court shall make
38 a finding that the lack of preplacement preventive efforts
39 were reasonable. Whenever a court orders a minor
40 detained, the court shall state the facts on which the



1 decision is based, shall specify why the initial removal was
2 necessary, and shall order services to be provided as soon
3 as possible to reunify the minor and his or her family if
4 appropriate.

5 When the minor is not released from custody the court
6 may order that the minor shall be placed in the suitable
7 home of a relative or in an emergency shelter or other
8 suitable licensed place or a place exempt from licensure
9 designated by the juvenile court or in an appropriate
10 certified family home whose license is pending and all the
11 prelicense requirements for such a placement have been
12 met as set forth in subdivision (e) of Section 361.2 for a
13 period not to exceed 15 judicial days.

14 As used in this section, “relative” means an adult who
15 is related to the child or child’s half sibling by blood or
16 affinity, including all relatives whose status is preceded by
17 the words “step,” “great,” “great-great,” or “grand,” or
18 the spouse of any of these persons, even if the marriage
19 was terminated by death or dissolution. However, only
20 the following relatives shall be given preferential
21 consideration for placement of the child: an adult who is
22 a grandparent, aunt, uncle, or a sibling of the child.

23 The court shall consider the recommendations of the
24 social worker based on the emergency assessment of the
25 relative’s suitability, including the results of a criminal
26 records check and prior child abuse allegations, if any,
27 prior to ordering that the child be placed with a relative.
28 The social worker shall initiate the assessment pursuant
29 to Section 361.3 of any relative to be considered for
30 continuing placement.

31 *SEC. 9. Section 325 of the Welfare and Institutions*
32 *Code is amended to read:*

33 325. A proceeding in the juvenile court to declare a
34 minor a dependent child of the court is commenced by
35 the filing with the court, by the ~~probation officer~~ *social*
36 *worker*, of a petition, in conformity with the
37 requirements of this article.

38 *SEC. 10. Section 328 of the Welfare and Institutions*
39 *Code is amended to read:*

1 328. Whenever the ~~probation officer~~ *social worker*
2 has cause to believe that there was or is within the county,
3 or residing therein, a person described in Section 300, the
4 ~~probation officer~~ *social worker* shall immediately make
5 any investigation he or she deems necessary to determine
6 whether child welfare services should be offered to the
7 family and whether proceedings in the juvenile court
8 should be commenced. If the ~~probation officer~~ *social*
9 *worker* determines that it is appropriate to offer child
10 welfare services to the family, the ~~probation officer~~ *social*
11 *worker* shall make a referral to these services pursuant to
12 Chapter 5 (commencing with Section 16500) of Part 4 of
13 Division 9.

14 However, this section does not require an investigation
15 by the ~~probation officer~~ *social worker* with respect to a
16 minor delivered or referred to any agency pursuant to
17 Section 307.5.

18 The ~~probation officer~~ *social worker* shall interview any
19 minor four years of age or older who is a subject of an
20 investigation, and who is in juvenile hall or other custodial
21 facility, or has been removed to a foster home, to ascertain
22 the minor's view of the home environment. If
23 proceedings are commenced, the ~~probation officer~~ *social*
24 *worker* shall include the substance of the interview in any
25 written report submitted at an adjudicatory hearing, or
26 if no report is then received in evidence, the ~~probation~~
27 ~~officer~~ *social worker* shall include the substance of the
28 interview in the social study required by Section 358.

29 *SEC. 11. Section 329 of the Welfare and Institutions*
30 *Code is amended to read:*

31 329. Whenever any person applies to the ~~probation~~
32 ~~officer~~ *social worker* to commence proceedings in the
33 juvenile court, ~~such~~ *the* application shall be in the form
34 of an affidavit alleging that there was or is within the
35 county, or residing therein, a minor within the provisions
36 of Section 300, and setting forth facts in support thereof.
37 The ~~probation officer~~ *social worker* shall immediately
38 ~~make such investigation~~ *investigate* as he or she deems
39 necessary to determine whether proceedings in the
40 juvenile court should be commenced. If the ~~probation~~



1 ~~officer~~ *social worker* does not take action under Section
2 330 and does not file a petition in the juvenile court within
3 three weeks after ~~such~~ *the* application, he *or she* shall
4 endorse upon the affidavit of applicant his *or her* decision
5 not to proceed further and his *or her* reasons therefor and
6 shall immediately notify the applicant of the action taken
7 or the decision rendered by him *or her* under this section.
8 The ~~probation-officer~~ *social worker* shall retain the
9 affidavit and his *or her* endorsement thereon for a period
10 of 30 days after ~~such notice to~~ *notifying the* applicant.

11 *SEC. 12. Section 331 of the Welfare and Institutions*
12 *Code is amended to read:*

13 331. When any person has applied to the ~~probation~~
14 ~~officer~~ *social worker*, pursuant to Section 329, to
15 commence juvenile court proceedings and the ~~probation~~
16 ~~officer~~ *social worker* fails to file a petition within three
17 weeks after ~~such~~ *the* application, ~~such~~ *the* person may,
18 within one month after making ~~such~~ *the* application,
19 apply to the juvenile court to review the decision of the
20 ~~probation-officer~~ *social worker*, and the court may either
21 affirm the decision of the ~~probation-officer~~ *social worker*
22 or order him *or her* to commence juvenile court
23 proceedings.

24 *SEC. 13. Section 331.5 of the Welfare and Institutions*
25 *Code is amended to read:*

26 331.5. When any officer has referred or delivered a
27 minor to an agency pursuant to Section 307.5, and that
28 agency does not initiate a service program for the minor
29 within the time periods required by Section 328.3, the
30 referring agency may, within 10 court days following
31 receipt of the notification from the referral agency, apply
32 to the ~~probation-officer~~ *social worker* for a review of that
33 decision.

34 *SEC. 14. Section 332 of the Welfare and Institutions*
35 *Code is amended to read:*

36 332. A petition to commence proceedings in the
37 juvenile court to declare a minor a ward or a dependent
38 child of the court shall be verified and shall contain all of
39 the following:

- 40 (a) The name of the court to which it is addressed.



1 (b) The title of the proceeding.

2 (c) The code section and the subdivision under which
3 the proceedings are instituted. If it is alleged that the
4 minor is a person described by subdivision (e) of Section
5 300, the petition shall include an allegation pursuant to
6 that section.

7 (d) The name, age, and address, if any, of the minor
8 upon whose behalf the petition is brought.

9 (e) The names and residence addresses, if known to
10 the petitioner, of both parents and any guardian of the
11 minor. If there is no parent or guardian residing within
12 the state, or if his or her place of residence is not known
13 to the petitioner, the petition shall also contain the name
14 and residence address, if known, of any adult relative
15 residing within the county, or, if there is none, the adult
16 relative residing nearest to the location of the court. If it
17 is known to the petitioner that one of the parents is a
18 victim of domestic violence and that parent is currently
19 living separately from the batterer-parent, the address of
20 the victim-parent shall remain confidential.

21 (f) A concise statement of facts, separately stated, to
22 support the conclusion that the minor upon whose behalf
23 the petition is being brought is a person within the
24 definition of each of the sections and subdivisions under
25 which the proceedings are being instituted.

26 (g) The fact that the minor upon whose behalf the
27 petition is brought is detained in custody or is not
28 detained in custody, and if he or she is detained in
29 custody, the date and the precise time the minor was
30 taken into custody.

31 (h) A notice to the father, mother, spouse, or other
32 person liable for support of the minor child, of all of the
33 following: (1) Section 903 makes that person, the estate
34 of that person, and the estate of the minor child, liable for
35 the cost of the care, support, and maintenance of the
36 minor child in any county institution or any other place
37 in which the child is placed, detained, or committed
38 pursuant to an order of the juvenile court; (2) Section
39 903.1 makes that person, the estate of that person, and the
40 estate of the minor child, liable for the cost to the county



1 of legal services rendered to the minor or the parent by
2 a private attorney or a public defender appointed
3 pursuant to the order of the juvenile court; (3) Section
4 903.2 makes that person, the estate of that person, and the
5 estate of the minor child, liable for the cost to the county
6 of the ~~probation~~ supervision of the minor child by the
7 ~~probation officer~~ *social worker* pursuant to the order of
8 the juvenile court; and (4) the liabilities established by
9 these sections are joint and several.

10 *SEC. 15. Section 332.5 of the Welfare and Institutions*
11 *Code is repealed.*

12 ~~332.5. A petition to commence proceedings in the~~
13 ~~juvenile court of a demonstration county to declare a~~
14 ~~minor a dependent child of the court shall be verified and~~
15 ~~must contain:~~

16 ~~(a) The name of the court to which the same is~~
17 ~~addressed.~~

18 ~~(b) The title of the proceeding.~~

19 ~~(c) The code section or sections and subdivision or~~
20 ~~subdivisions under which the proceedings are instituted.~~

21 ~~(d) The name, age, and address, if any, of the minor~~
22 ~~upon whose behalf the petition is brought.~~

23 ~~(e) The name or names and residence address, if~~
24 ~~known to the petitioner, of all parents and guardians of~~
25 ~~such minor. If there is no parent or guardian residing~~
26 ~~within the state, or if his place of residence is not known~~
27 ~~to the petitioner, the petition must also contain the name~~
28 ~~and residence address, if known, of any adult relative~~
29 ~~residing within the county, or, if there be none, the adult~~
30 ~~relative residing nearest to the location of the court.~~

31 ~~(f) A concise statement of facts, separately stated, to~~
32 ~~support the conclusion that the minor upon whose behalf~~
33 ~~the petition is being brought is a person within the~~
34 ~~definition of Section 300 or 302.~~

35 ~~(g) The fact that the minor upon whose behalf the~~
36 ~~petition is brought is detained in custody or is not~~
37 ~~detained in custody, and if he is detained in custody, the~~
38 ~~date and the precise time the minor was taken into~~
39 ~~custody.~~



1 SEC. 16. Section 341 of the Welfare and Institutions
 2 Code is amended to read:

3 341. Upon request of the ~~probation officer~~ social
 4 worker, district attorney, the minor, or the minor's
 5 parent, guardian, or custodian, or on the court's own
 6 motion, the court or the clerk of the court, or an attorney,
 7 pursuant to Section 1985 of the Code of Civil Procedure,
 8 shall issue subpoenas requiring attendance and testimony
 9 of witnesses and production of papers at any hearing
 10 regarding a minor who is alleged or determined by the
 11 court to be a person described by Section 300. When a
 12 person attends a juvenile court hearing as a witness upon
 13 a subpoena, in its discretion, the court may by an order on
 14 its minutes, direct the county auditor to draw his or her
 15 warrant upon the county treasurer in favor of the witness
 16 for witness fees in the amount and manner prescribed by
 17 Section 68093 of the Government Code. The fees are
 18 county charges.

19 SEC. 17. Section 351.5 of the Welfare and Institutions
 20 Code is repealed.

21 ~~351.5. In a juvenile court hearing in a demonstration~~
 22 ~~county the district attorney or county counsel shall, with~~
 23 ~~the consent or at the request of the juvenile court judge~~
 24 ~~or welfare department, represent the petitioner and shall~~
 25 ~~assist in the ascertaining and presenting of the evidence.~~

26 SEC. 18. Section 353.5 of the Welfare and Institutions
 27 Code is repealed.

28 ~~353.5. In a demonstration county, at the beginning of~~
 29 ~~the hearing on a petition filed pursuant to Article 8~~
 30 ~~(commencing with Section 325) of this chapter, the judge~~
 31 ~~or clerk shall first read the petition to those present and~~
 32 ~~upon request of the minor upon whose behalf the petition~~
 33 ~~has been brought or upon the request of any parent,~~
 34 ~~relative or guardian, the judge shall explain any term or~~
 35 ~~allegation contained therein and the nature of the~~
 36 ~~hearing, its procedures, and possible consequences. The~~
 37 ~~judge shall ascertain whether the minor and his parent or~~
 38 ~~guardian or adult relative, as the case may be, has been~~
 39 ~~informed of the right of the minor and parents or~~
 40 ~~guardian to be represented by counsel, and if not, the~~



1 ~~judge shall advise the minor and such person, if present,~~
2 ~~of the right to have counsel present and where applicable,~~
3 ~~of the right to appointed counsel. Before proceeding~~
4 ~~further, the court, in a case in which the minor is alleged~~
5 ~~to be within the provisions of Section 300 or 302, shall first~~
6 ~~comply with the provisions of Section 318.5. The court~~
7 ~~shall continue the hearing for not to exceed seven days,~~
8 ~~as necessary to make an appointment of counsel, or to~~
9 ~~enable counsel to acquaint himself with the case, or to~~
10 ~~determine whether the parent or guardian or adult~~
11 ~~relative is unable to afford counsel at his own expense,~~
12 ~~and shall continue the hearing as necessary to provide~~
13 ~~reasonable opportunity for the minor and the parent or~~
14 ~~guardian or adult relative to prepare for the hearing.~~

15 *SEC. 19. Section 358 of the Welfare and Institutions*
16 *Code is amended to read:*

17 358. (a) After finding that a minor is a person
18 described in Section 300, the court shall hear evidence on
19 the question of the proper disposition to be made of the
20 minor. Prior to making a finding required by this section,
21 the court may continue the hearing on its own motion,
22 the motion of the parent or guardian, or the motion of the
23 minor, as follows:

24 (1) If the minor is detained during the continuance,
25 and the ~~probation officer~~ *social worker* is not alleging that
26 subdivision (b) of Section 361.5 is applicable, the
27 continuance shall not exceed 10 judicial days. The court
28 may make ~~such an~~ order for detention of the minor or for
29 the minor's release from detention, during the period of
30 continuance, as is appropriate.

31 (2) If the minor is not detained during the
32 continuance, the continuance shall not exceed 30 days
33 after the date of the finding pursuant to Section 356.
34 However, the court may, for cause, continue the hearing
35 for an additional 15 days.

36 (3) If the ~~probation officer~~ *social worker* is alleging
37 that subdivision (b) of Section 361.5 is applicable, the
38 court shall continue the proceedings for a period not to
39 exceed 30 days. The ~~probation officer~~ *social worker* shall
40 notify each parent of the content of subdivision (b) of



1 Section 361.5 and shall inform each parent that if the
2 court does not order reunification a permanency
3 planning hearing will be held, and that his or her parental
4 rights may be terminated within the time frames
5 specified by law.

6 (b) Before determining the appropriate disposition,
7 the court shall receive in evidence the social study of the
8 minor made by the ~~probation officer~~ *social worker*, any
9 study or evaluation made by a child advocate appointed
10 by the court, and ~~such~~ other relevant and material
11 evidence as may be offered. In any judgment and order
12 of disposition, the court shall specifically state that the
13 social study made by the ~~probation officer~~ *social worker*
14 and the study or evaluation made by the child advocate
15 appointed by the court, if there be any, has been read and
16 considered by the court in arriving at its judgment and
17 order of disposition. Any social study or report submitted
18 to the court by the ~~probation officer~~ *social worker* shall
19 include the individual child’s case plan developed
20 pursuant to Section 16501.1.

21 (c) If the court finds that a minor is described by
22 subdivision (h) of Section 300 or that subdivision (b) of
23 Section 361.5 may be applicable, the court shall conduct
24 the dispositional proceeding pursuant to subdivision (c)
25 of Section 361.5.

26 *SEC. 20. Section 358.1 of the Welfare and Institutions*
27 *Code is amended to read:*

28 358.1. Each social study or evaluation made by a
29 ~~probation officer~~ *social worker* or child advocate
30 appointed by the court, required to be received in
31 evidence pursuant to Section 358, shall include, but not be
32 limited to, a factual discussion of each of the following
33 subjects:

34 (a) Whether the county welfare department or
35 ~~probation officer~~ *social worker* has considered child
36 protective services, as defined in Chapter 5
37 (commencing with Section 16500) of Part 4 of Division 9,
38 as a possible solution to the problems at hand, and has
39 offered these services to qualified parents if appropriate
40 under the circumstances.



1 (b) What plan, if any, for return of the child to his or
2 her parents and for achieving legal permanence for the
3 child if efforts to reunify fail, is recommended to the court
4 by the county welfare department or probation officer.

5 (c) Whether the best interests of the child will be
6 served by granting reasonable visitation rights with the
7 child to his or her grandparents, in order to maintain and
8 strengthen the child's family relationships.

9 (d) Whether the subject child appears to be a person
10 who is eligible to be considered for further court action
11 to free the child from parental custody and control.

12 (e) Whether the parent has been advised of his or her
13 option to participate in adoption planning and to
14 voluntarily relinquish the child for adoption if an
15 adoption agency is willing to accept the relinquishment.

16 (f) The appropriateness of any relative placement
17 pursuant to Section 361.3; however, this consideration
18 shall not be cause for continuance of the dispositional
19 hearing.

20 *SEC. 21. Section 360 of the Welfare and Institutions*
21 *Code is amended to read:*

22 360. After receiving and considering the evidence on
23 the proper disposition of the case, the juvenile court may
24 enter judgment as follows:

25 (a) Notwithstanding any other provision of law, if the
26 court finds that the minor is a person described by Section
27 300 and the parent has advised the court that the parent
28 is not interested in family maintenance or family
29 reunification services, it may, in addition to or in lieu of
30 adjudicating the minor a dependent child of the court,
31 order a legal guardianship, appoint a legal guardian, and
32 issue letters of guardianship, if the court determines that
33 a guardianship is in the best interest of the minor,
34 provided the parent and the minor agree to the
35 guardianship, unless the minor's age or physical,
36 emotional, or mental condition prevents the minor's
37 meaningful response. The court shall advise the parent
38 and the minor that no reunification services will be
39 provided as a result of the establishment of a



1 guardianship. The proceeding for the appointment of a
2 guardian shall be in the juvenile court.

3 Any application for termination of guardianship shall
4 be filed in juvenile court in a form as may be developed
5 by the Judicial Council pursuant to Section 68511 of the
6 Government Code. Section 388 shall apply to this order
7 of guardianship.

8 No person shall be appointed a legal guardian under
9 this section until an assessment as specified in subdivision
10 (g) of Section 361.5 is read and considered by the court
11 and reflected in the minutes of the court. The assessment
12 shall include the following:

13 (1) Current search efforts for, and notification of, a
14 noncustodial parent in the manner provided in Section
15 337.

16 (2) A review of the amount of and nature of any
17 contact between the minor and his or her parents since
18 the filing of the petition.

19 (3) An evaluation of the minor's medical,
20 developmental, scholastic, mental, and emotional status.

21 (4) A preliminary assessment of the eligibility and
22 commitment of any identified prospective guardian,
23 particularly the caretaker, to include a social history
24 including a screening for criminal records and prior
25 referrals for child abuse or neglect, the capability to meet
26 the minor's needs, and the understanding of the legal and
27 financial rights and responsibilities of guardianship.

28 (5) The relationship of the minor to any identified
29 prospective guardian, the duration and nature of the
30 relationship, the motivation for seeking guardianship,
31 and a statement from the minor concerning the
32 guardianship, unless the minor's age or physical,
33 emotional, or other condition precludes the minor's
34 meaningful response, and if so, a description of the
35 condition.

36 (6) An analysis of the likelihood that the minor would
37 be adopted if parental rights were terminated.

38 The person responsible for preparing the assessment
39 may be called and examined by any party to the
40 guardianship proceeding.



1 (b) If the court finds that the minor is a person
2 described by Section 300, it may, without adjudicating the
3 minor a dependent child of the court, order that services
4 be provided to keep the family together and place the
5 minor and the minor's parent or guardian under the
6 supervision of the ~~probation officer~~ *social worker* for a
7 time period consistent with Section 301.

8 (c) If the family subsequently is unable or unwilling to
9 cooperate with the services being provided, the
10 ~~probation officer~~ *social worker* may file a petition with
11 the juvenile court pursuant to Section 332 alleging that a
12 previous petition has been sustained and that disposition
13 pursuant to subdivision (b) has been ineffective in
14 ameliorating the situation requiring the child welfare
15 services. Upon hearing the petition, the court shall order
16 either that the petition shall be dismissed or that a new
17 disposition hearing shall be held pursuant to subdivision
18 (d).

19 (d) If the court finds that the minor is a person
20 described by Section 300, it may order and adjudge the
21 minor to be a dependent child of the court.

22 *SEC. 22. Section 360.5 of the Welfare and Institutions*
23 *Code is repealed.*

24 ~~360.5. After receiving and considering the evidence~~
25 ~~on the proper disposition of the case, the juvenile court~~
26 ~~of a demonstration county may enter judgment as follows:~~

27 ~~(a) If the court has found that the minor is a person~~
28 ~~described in Section 300, it may, without adjudging such~~
29 ~~minor a dependent child of the court, order that services~~
30 ~~be provided to keep the family together and place the~~
31 ~~minor and his parents or guardians under the supervision~~
32 ~~of the probation officer or social worker in a county~~
33 ~~welfare department designated pursuant to Section 272~~
34 ~~for a period not to exceed six months.~~

35 ~~(b) If the court has found that the minor is a person~~
36 ~~described by Section 300, it may order and adjudge the~~
37 ~~minor to be a dependent child of the court.~~

38 *SEC. 23. Section 361.2 of the Welfare and Institutions*
39 *Code is amended to read:*



1 361.2. (a) When a court orders removal of a minor
2 pursuant to Section 361, the court shall first determine
3 whether there is a parent of the minor, with whom the
4 minor was not residing at the time that the events or
5 conditions arose that brought the minor within the
6 provisions of Section 300, who desires to assume custody
7 of the minor. If ~~such a~~ *that* parent requests custody, the
8 court shall place the minor with the parent unless it finds
9 that placement with that parent would be detrimental to
10 the safety, protection, or physical or emotional well-being
11 of the minor.

12 (b) If the court places the minor with such a parent it
13 may do either of the following:

14 (1) Order that the parent become legal and physical
15 custodian of the child. The court may also provide
16 reasonable visitation by the noncustodial parent. The
17 court shall then terminate its jurisdiction over the minor.
18 The custody order shall continue unless modified by a
19 subsequent order of the superior court. The order of the
20 juvenile court shall be filed in any domestic relation
21 proceeding between the parents.

22 (2) Order that the parent assume custody subject to
23 the supervision of the juvenile court. In such a case the
24 court may order that reunification services be provided
25 to the parent or guardian from whom the minor is being
26 removed, or the court may order that services be
27 provided solely to the parent who is assuming physical
28 custody in order to allow that parent to retain later
29 custody without court supervision, or that services be
30 provided to both parents, in which case the court shall
31 determine, at review hearings held pursuant to Section
32 366, which parent, if either, shall have custody of the
33 minor.

34 (c) The court shall make a finding either in writing or
35 on the record of the basis for its determination under
36 subdivisions (a) and (b).

37 (d) Part 6 (commencing with Section 7950) of
38 Division 12 of the Family Code shall apply to the
39 placement of a minor pursuant to paragraphs (1) and (2)
40 of subdivision (e).



1 (e) When the court orders removal pursuant to
2 Section 361, the court shall order the care, custody,
3 control, and conduct of the minor to be under the
4 supervision of the ~~probation officer~~ *social worker* who
5 may place the minor in any of the following:

6 (1) The home of a relative, including a noncustodial
7 parent.

8 (2) A foster home in which the child has been placed
9 before an interruption in foster care, if that placement is
10 in the best interest of the child and space is available.

11 (3) A suitable licensed community care facility.

12 (4) With a foster family agency to be placed in a
13 suitable licensed foster family home or certified family
14 home which has been certified by the agency as meeting
15 licensing standards.

16 (5) A home or facility in accordance with the federal
17 Indian Child Welfare Act.

18 (6) A child under the age of six years may be placed in
19 a community care facility licensed as a group home for
20 children, or a temporary shelter care facility as defined in
21 Section 1530.8 of the Health and Safety Code, only under
22 any of the following circumstances:

23 (A) When a case plan indicates that placement is for
24 purposes of providing specialized treatment to the child,
25 the case plan specifies the need for, nature of, and
26 anticipated duration of this treatment, and the facility
27 meets the applicable regulations adopted under Section
28 1530.8 of the Health and Safety Code and standards
29 developed pursuant to Section 11467.1. The specialized
30 treatment period shall not exceed 120 days, unless
31 additional time is needed pursuant to the case plan as
32 documented by the caseworker and approved by the
33 caseworker's supervisor.

34 (B) When a case plan indicates that placement is for
35 purposes of providing family reunification services. In
36 addition, the facility offers family reunification services
37 that meet the needs of the individual child and his or her
38 family, permits parents to have reasonable access to their
39 children 24 hours a day, encourages extensive parental
40 involvement in meeting the daily needs of their children,



1 and employs staff trained to provide family reunification
2 services. In addition, one of the following conditions
3 exists:

4 (i) The child's parent is also a ward of the court and
5 resides in the facility.

6 (ii) The child's parent is participating in a treatment
7 program affiliated with the facility and the child's
8 placement in the facility facilitates the coordination and
9 provision of reunification services.

10 (iii) Placement in the facility is the only alternative
11 that permits the parent to have daily 24-hour access to the
12 child in accordance with the case plan, to participate fully
13 in meeting all of the daily needs of the child, including
14 feeding and personal hygiene, and to have access to
15 necessary reunification services.

16 (f) (1) If the minor is taken from the physical custody
17 of the minor's parent or guardian and unless the minor is
18 placed with relatives, the minor shall be placed in foster
19 care in the county of residence of the minor's parent or
20 guardian in order to facilitate reunification of the family.

21 (2) In the event that there are no appropriate
22 placements available in the parent's or guardian's county
23 of residence, a placement may be made in an appropriate
24 place in another county, preferably a county located
25 adjacent to the parent's or guardian's community of
26 residence.

27 (3) Nothing in this section shall be interpreted as
28 requiring multiple disruptions of the minor's placement
29 corresponding to frequent changes of residence by the
30 parent or guardian. In determining whether the minor
31 should be moved, the ~~probation officer~~ *social worker* shall
32 take into consideration the potential harmful effects of
33 disrupting the placement of the minor and the parent's
34 or guardian's reason for the move.

35 (4) When it has been determined that it is necessary
36 for a minor to be placed in a county other than the minor's
37 parent's or guardian's county of residence, the specific
38 reason the out-of-county placement is necessary shall be
39 documented in the minor's case plan. If the reason the
40 out-of-county placement is necessary is the lack of



1 resources in the sending county to meet the specific
2 needs of the minor, those specific resource needs shall be
3 documented in the case plan.

4 (5) When it has been determined that a minor is to be
5 placed out-of-county either in a group home or with a
6 foster family agency for subsequent placement in a
7 certified foster family home, and the sending county is to
8 maintain responsibility for supervision and visitation of
9 the minor, the sending county shall develop a plan of
10 supervision and visitation that specifies the supervision
11 and visitation activities to be performed and specifies that
12 the sending county is responsible for performing those
13 activities. In addition to the plan of supervision and
14 visitation, the sending county shall document
15 information regarding any known or suspected
16 dangerous behavior of the minor that indicates the minor
17 may pose a safety concern in the receiving county. Upon
18 implementation of the Child Welfare Services Case
19 Management System, the plan of supervision and
20 visitation, as well as information regarding any known or
21 suspected dangerous behavior of the minor, shall be made
22 available to the receiving county upon placement of the
23 minor in the receiving county. If placement occurs on a
24 weekend or holiday, the information shall be made
25 available to the receiving county on or before the end of
26 the next business day.

27 (6) When it has been determined that a minor is to be
28 placed out-of-county and the sending county plans that
29 the receiving county shall be responsible for the
30 supervision and visitation of the minor, the sending
31 county shall develop a formal agreement between the
32 sending and receiving counties. The formal agreement
33 shall specify the supervision and visitation to be provided
34 the minor, and shall specify that the receiving county is
35 responsible for providing the supervision and visitation.
36 The formal agreement shall be approved and signed by
37 the sending and receiving counties prior to placement of
38 the minor in the receiving county. In addition, upon
39 completion of the case plan, the sending county shall
40 provide a copy of the completed case plan to the



1 receiving county. The case plan shall include information
2 regarding any known or suspected dangerous behavior of
3 the minor that indicates the minor may pose a safety
4 concern to the receiving county.

5 (g) Whenever the ~~probation officer~~ *social worker*
6 must change the placement of the minor and is unable to
7 find a suitable placement within the county and must
8 place the minor outside the county, the placement shall
9 not be made until he or she has served written notice on
10 the parent or guardian at least 14 days prior to the
11 placement, unless the child's health or well-being is
12 endangered by delaying the action or would be
13 endangered if prior notice were given. The notice shall
14 state the reasons which require placement outside the
15 county. The parent or guardian may object to the
16 placement not later than seven days after receipt of the
17 notice and, upon objection, the court shall hold a hearing
18 not later than five days after the objection and prior to the
19 placement. The court shall order out-of-county
20 placement if it finds that the minor's particular needs
21 require placement outside the county.

22 (h) Where the court has ordered a minor placed under
23 the supervision of the ~~probation officer~~ *social worker* and
24 the probation officer has found that the needs of the child
25 cannot be met in any available licensed or exempt facility,
26 including emergency shelter, the minor may be placed in
27 a suitable family home that has filed a license application
28 with the State Department of Social Services, if all of the
29 following certification conditions are met:

30 (1) A preplacement home visit is made by the
31 probation officer to determine the suitability of the family
32 home.

33 (2) The ~~probation officer~~ *social worker* verifies to the
34 licensing agency in writing that the home lacks any
35 deficiencies which would threaten the physical health,
36 mental health, safety, or welfare of the minor.

37 (3) The ~~probation officer~~ *social worker* notifies the
38 licensing agency of the proposed placement and
39 determines that the foster family home applicant has filed
40 specific license application documents prior to and after



1 the placement of the minor. If the license is subsequently
2 denied, the minor shall be removed from the home
3 immediately. The denial of the license constitutes a
4 withdrawal of the certification.

5 (i) Where the court has ordered removal of the child
6 from the physical custody of his or her parents pursuant
7 to Section 361, the court shall consider whether the family
8 ties and best interest of the minor will be served by
9 granting visitation rights to the minor's grandparents.
10 The court shall clearly specify those rights to the
11 supervising probation officer.

12 *SEC. 24. Section 361.5 of the Welfare and Institutions*
13 *Code is amended to read:*

14 361.5. (a) Except as provided in subdivision (b) of
15 this section or when the parent has voluntarily
16 relinquished the minor and the relinquishment has been
17 filed with the State Department of Social Services or,
18 upon the establishment of an order of guardianship
19 pursuant to Section 360, whenever a minor is removed
20 from a parent's or guardian's custody, the juvenile court
21 shall order the ~~probation officer~~ *social worker* to provide
22 child welfare services to the minor and the minor's
23 mother and statutorily presumed father, or guardians.
24 Upon a finding and declaration of paternity by the
25 juvenile court or proof of a prior declaration of paternity
26 by any court of competent jurisdiction, the juvenile court
27 may order services for the minor and the biological
28 father, if the court determines that the services will
29 benefit the child. Child welfare services, when provided,
30 shall be provided as follows:

31 (1) For a minor who, on the date of initial removal
32 from the physical custody of his or her parent or guardian,
33 was three years of age or older, court-ordered services
34 shall not exceed a period of 12 months.

35 (2) For a minor who, on the date of initial removal
36 from the physical custody of his or her parent or guardian,
37 was under the age of three years, court-ordered services
38 shall not exceed a period of six months.

39 However, court-ordered services may be extended up
40 to a maximum time period not to exceed 18 months if it



1 can be shown that the objectives of the service plan can
2 be achieved within the extended time period. The court
3 shall extend the time period only if it finds that there is
4 a substantial probability that the minor will be returned
5 to the physical custody of his or her parent or guardian
6 within the extended time period or that reasonable
7 services have not been provided to the parent or
8 guardian. If the court extends the time period, the court
9 shall specify the factual basis for its conclusion that there
10 is a substantial probability that the minor will be returned
11 to the physical custody of his or her parent or guardian
12 within the extended time period. The court also shall
13 make findings pursuant to subdivision (a) of Section 366
14 and subdivision (e) of Section 358.1. When counseling or
15 other treatment services are ordered, the parent or
16 guardian shall be ordered to participate in those services,
17 unless the parent's or guardian's participation is deemed
18 by the court to be inappropriate or potentially
19 detrimental to the minor. Physical custody of the minor
20 by the parents or guardians during the 18-month period
21 shall not serve to interrupt the running of the period. If
22 at the end of the 18-month period, a minor cannot be
23 safely returned to the care and custody of a parent or
24 guardian without court supervision, but the minor clearly
25 desires contact with the parent or guardian, the court
26 shall take the child's desire into account in devising a
27 permanency plan.

28 In cases where the minor was under the age of three
29 years on the date of the initial removal from the physical
30 custody of his or her parent or guardian, the court shall
31 inform the parent or guardian that the failure of the
32 parent or guardian to participate regularly in any
33 court-ordered treatment programs or to cooperate or
34 avail himself or herself of services provided as part of the
35 child welfare services case plan may result in a
36 termination of efforts to reunify the family after six
37 months.

38 Except in cases where, pursuant to subdivision (b), the
39 court does not order reunification services, the court shall
40 inform the parent or parents of Section 366.25 or 366.26



1 and shall specify that the parent's or parents' parental
2 rights may be terminated.

3 (b) Reunification services need not be provided to a
4 parent or guardian described in this subdivision when the
5 court finds, by clear and convincing evidence, any of the
6 following:

7 (1) That the whereabouts of the parent or guardian is
8 unknown. A finding pursuant to this paragraph shall be
9 supported by an affidavit or by proof that a reasonably
10 diligent search has failed to locate the parent or guardian.
11 The posting or publication of notices is not required in
12 that search.

13 (2) That the parent or guardian is suffering from a
14 mental disability that is described in Chapter 2
15 (commencing with Section 7820) of Part 4 of Division 12
16 of the Family Code and that renders him or her incapable
17 of utilizing those services.

18 (3) That the minor or a sibling of the minor had been
19 previously adjudicated a dependent pursuant to any
20 subdivision of Section 300 as a result of physical or sexual
21 abuse, that following that adjudication the minor had
22 been removed from the custody of his or her parent or
23 guardian pursuant to Section 361, that the minor has been
24 returned to the custody of the parent or guardian from
25 whom the minor had been taken originally, and that the
26 minor is being removed pursuant to Section 361, due to
27 additional physical or sexual abuse.

28 (4) That the parent or guardian of the minor has
29 caused the death of another minor through abuse or
30 neglect.

31 (5) That the minor was brought within the jurisdiction
32 of the court under subdivision (e) of Section 300 because
33 of the conduct of that parent or guardian.

34 (6) That the minor has been adjudicated a dependent
35 pursuant to any subdivision of Section 300 as a result of
36 severe sexual abuse or the infliction of severe physical
37 harm to the minor, a sibling, or a half-sibling by a parent
38 or guardian, as defined in this subdivision, and the court
39 makes a factual finding that it would not benefit the



1 minor to pursue reunification services with the offending
2 parent or guardian.

3 A finding of severe sexual abuse, for the purposes of this
4 subdivision, may be based on, but is not limited to, sexual
5 intercourse or stimulation involving genital-genital,
6 oral-genital, anal-genital, or oral-anal contact, whether
7 between the parent or guardian and the minor, or a
8 sibling or half-sibling of the minor, or between the minor
9 or a sibling or half-sibling of the minor, and another
10 person or animal with the actual or implied consent of the
11 parent or guardian, or the penetration or manipulation of
12 the minor's, sibling's, or half-sibling's genital organs or
13 rectum by any animate or inanimate object, for the sexual
14 gratification of the parent or guardian, or for the sexual
15 gratification of another person with the actual or implied
16 consent of the parent or guardian.

17 A finding of the infliction of severe physical harm, for
18 the purposes of this subdivision, may be based on, but is
19 not limited to, deliberate and serious injury inflicted to or
20 on a minor's body, or the body of a sibling or half-sibling
21 of the minor, by an act or omission of the parent or
22 guardian, or of another individual or animal with the
23 consent of the parent or guardian; deliberate and
24 torturous confinement of the minor, sibling, or
25 half-sibling, in a closed space; or any other torturous act
26 or omission which would be reasonably understood to
27 cause serious emotional damage.

28 (7) That the parent is not receiving reunification
29 services for a sibling or a half-sibling of the minor
30 pursuant to paragraph (3), (5), or (6).

31 (8) That the minor was conceived by means of the
32 commission of an offense listed in Section 288 or 288.5 of
33 the Penal Code, or by an act committed outside of this
34 state which if committed in this state would constitute
35 such an offense. This paragraph only applies to the parent
36 who committed the offense or act.

37 (9) That the minor was brought within the jurisdiction
38 of the court under subdivision (g) of Section 300, that the
39 parent or guardian of the minor willfully abandoned the
40 minor, and the court finds that the abandonment itself



1 constituted a serious danger to the minor. For purposes
2 of this paragraph, a “serious danger” means that without
3 the intervention of another person or agency, the minor
4 would have sustained severe or permanent disability,
5 injury, illness, or death. For purposes of this paragraph,
6 “willful abandonment” shall not be construed as actions
7 taken in good faith by the parent without the intent of
8 placing the minor in serious danger.

9 (10) That (A) the court ordered a permanent plan of
10 adoption, guardianship, or long-term foster care for any
11 siblings or half-siblings of the minor because the parent
12 or guardian failed to reunify with the sibling or
13 half-sibling after the sibling or half-sibling had been
14 removed from that parent or guardian pursuant to
15 Section 361 and that parent or guardian is the same parent
16 or guardian described in subdivision (a), or (B) the
17 parental rights of a parent or guardian over any sibling or
18 half-sibling of the minor had been permanently severed,
19 and that, according to the findings of the court, this
20 parent or guardian has not subsequently made a
21 reasonable effort to treat the problems that led to
22 removal of the sibling or half-sibling of that minor from
23 that parent or guardian.

24 (11) That the parent or guardian has been convicted
25 of a violent felony, as defined in subdivision (c) of Section
26 667.5 of the Penal Code.

27 (12) That the parent or guardian of the minor has a
28 history of extensive, abusive, and chronic use of drugs or
29 alcohol and has resisted prior treatment for this problem
30 during a three-year period immediately prior to the filing
31 of the petition which brought that minor to the court’s
32 attention, or has failed or refused to comply with a
33 program of drug or alcohol treatment described in the
34 case plan required by Section 358.1 on at least two prior
35 occasions, even though the programs identified were
36 available and accessible.

37 (13) That the parent or guardian of the minor has
38 advised the court that he or she is not interested in
39 receiving family maintenance or family reunification
40 services or having the minor returned to or placed in his



1 or her custody and does not wish to receive family
2 maintenance or reunification services.

3 The parent or guardian shall be represented by counsel
4 and shall execute a waiver of services form to be adopted
5 by the Judicial Council. The court shall advise the parent
6 or guardian of any right to services and of the possible
7 consequences of a waiver of services, including the
8 termination of parental rights and placement of the child
9 for adoption. The court shall not accept the waiver of
10 services unless it states on the record its finding that the
11 parent or guardian has knowingly and intelligently
12 waived the right to services.

13 (c) In deciding whether to order reunification in any
14 case in which this section applies, the court shall hold a
15 dispositional hearing. The probation officer shall prepare
16 a report which discusses whether reunification services
17 shall be provided. When it is alleged, pursuant to
18 paragraph (2) of subdivision (b), that the parent is
19 incapable of utilizing services due to mental disability,
20 the court shall order reunification services unless
21 competent evidence from mental health professionals
22 establishes that, even with the provision of services, the
23 parent is unlikely to be capable of adequately caring for
24 the child within 12 months.

25 The court shall not order reunification for a parent or
26 guardian described in paragraph (3), (4), (6), (7), (8),
27 (9), (10), (11), (12), or (13) of subdivision (b) unless the
28 court finds, by clear and convincing evidence, that
29 reunification is in the best interests of the minor.

30 In addition, the court shall not order reunification in
31 any situation described in paragraph (5) of subdivision
32 (b) unless it finds that, based on competent testimony,
33 those services are likely to prevent reabuse or continued
34 neglect of the minor or that failure to try reunification
35 will be detrimental to the minor because the minor is
36 closely and positively attached to that parent. The
37 probation officer shall investigate the circumstances
38 leading to the removal of the minor and advise the court
39 whether there are circumstances which indicate that
40 reunification is likely to be successful or unsuccessful and



1 whether failure to order reunification is likely to be
2 detrimental to the minor.

3 The failure of the parent to respond to previous
4 services, the fact that the minor was abused while the
5 parent was under the influence of drugs or alcohol, a past
6 history of violent behavior, or testimony by a competent
7 professional that the parent's behavior is unlikely to be
8 changed by services, are among the factors indicating
9 that reunification services are unlikely to be successful.
10 The fact that a parent or guardian is no longer living with
11 an individual who severely abused the minor may be
12 considered in deciding that reunification services are
13 likely to be successful, provided that the court shall
14 consider any pattern of behavior on the part of the parent
15 that has exposed the minor to repeated abuse.

16 (d) If reunification services are not ordered pursuant
17 to paragraph (1) of subdivision (b) and the whereabouts
18 of a parent become known within six months of the
19 out-of-home placement of the minor, the court shall order
20 the ~~probation officer~~ *social worker* to provide family
21 reunification services in accordance with this subdivision.
22 However, the time limits specified in subdivision (a) and
23 Section 366.25 are not tolled by the parent's absence.

24 (e) (1) If the parent or guardian is incarcerated or
25 institutionalized, the court shall order reasonable services
26 unless the court determines, by clear and convincing
27 evidence, those services would be detrimental to the
28 minor. In determining detriment, the court shall consider
29 the age of the minor, the degree of parent-child bonding,
30 the length of the sentence, the nature of the treatment,
31 the nature of crime or illness, the degree of detriment to
32 the minor if services are not offered and, for minors 10
33 years of age or older, the minor's attitude toward the
34 implementation of family reunification services, and any
35 other appropriate factors. Reunification services are
36 subject to the 18-month limitation imposed in subdivision
37 (a). Services may include, but shall not be limited to, all
38 of the following:

39 (A) Maintaining contact between parent and minor
40 through collect telephone calls.



1 (B) Transportation services, where appropriate.

2 (C) Visitation services, where appropriate.

3 (D) Reasonable services to extended family members
4 or foster parents providing care for the minor if the
5 services are not detrimental to the minor.

6 An incarcerated parent may be required to attend
7 counseling, parenting classes, or vocational training
8 programs as part of the service plan if these programs are
9 available.

10 (2) The presiding judge of the juvenile court of each
11 county may convene representatives of the county
12 welfare department, the sheriff's department, and other
13 appropriate entities for the purpose of developing and
14 entering into protocols for ensuring the notification,
15 transportation, and presence of an incarcerated or
16 institutionalized parent at all court hearings involving
17 proceedings affecting the minor pursuant to Section 2625
18 of the Penal Code.

19 (3) Notwithstanding any other provision of law, if the
20 incarcerated parent is a woman seeking to participate in
21 the community treatment program operated by the
22 Department of Corrections pursuant to Chapter 4.8
23 (commencing with Section 1174) of Title 7 of Part 2 of, or
24 Chapter 4 (commencing with Section 3410) of Title 2 of
25 Part 3 of the Penal Code, the court shall determine
26 whether the parent's participation in a program is in the
27 child's best interests and whether it is suitable to meet the
28 needs of the parent and child.

29 (f) If a court, pursuant to paragraph (2), (3), (4), (5),
30 (6), (7), (8), (9), (10), (11), (12), or (13) of subdivision
31 (b) or paragraph (1) of subdivision (e), does not order
32 reunification services, it shall conduct a hearing pursuant
33 to Section 366.25 or 366.26 within 120 days of the
34 dispositional hearing. However, the court shall not
35 schedule a hearing so long as the other parent is being
36 provided reunification services pursuant to subdivision
37 (a). The court may continue to permit the parent to visit
38 the minor unless it finds that visitation would be
39 detrimental to the minor.



1 (g) Whenever a court orders that a hearing shall be
2 held pursuant to Section 366.25 or 366.26 it shall direct the
3 agency supervising the minor and the licensed county
4 adoption agency, or the State Department of Social
5 Services when it is acting as an adoption agency in
6 counties which are not served by a county adoption
7 agency, to prepare an assessment regarding the
8 likelihood that the minor will be adopted if parental
9 rights are terminated. The assessment shall include:

10 (1) Current search efforts for an absent parent or
11 parents.

12 (2) A review of the amount of and nature of any
13 contact between the minor and his or her parents since
14 the time of placement.

15 (3) An evaluation of the minor's medical,
16 developmental, scholastic, mental, and emotional status
17 and an analysis of whether any of the minor's
18 characteristics would make it difficult to find a person
19 willing to adopt the minor.

20 (4) A preliminary assessment of the eligibility and
21 commitment of any identified prospective adoptive
22 parent or guardian, particularly the caretaker, to include
23 a social history including screening for criminal records
24 and prior referrals for child abuse or neglect, the
25 capability to meet the minor's needs, and the
26 understanding of the legal and financial rights and
27 responsibilities of adoption and guardianship.

28 (5) The relationship of the minor to any identified
29 prospective adoptive parent or guardian, the duration
30 and character of the relationship, the motivation for
31 seeking adoption or guardianship, and a statement from
32 the minor concerning placement and the adoption or
33 guardianship, unless the minor's age or physical,
34 emotional, or other condition precludes his or her
35 meaningful response, and if so, a description of the
36 condition.

37 (h) In determining whether reunification services will
38 benefit the minor pursuant to paragraph (6) or (7) of
39 subdivision (b), the court shall consider any information
40 it deems relevant, including the following factors:



1 (1) The specific act or omission comprising the severe
 2 sexual abuse or the severe physical harm inflicted on the
 3 minor or the minor’s sibling or half-sibling.

4 (2) The circumstances under which the abuse or harm
 5 was inflicted on the minor or the minor’s sibling or
 6 half-sibling.

7 (3) The severity of the emotional trauma suffered by
 8 the minor or the minor’s sibling or half-sibling.

9 (4) Any history of abuse of other children by the
 10 offending parent or guardian.

11 (5) The likelihood that the minor may be safely
 12 returned to the care of the offending parent or guardian
 13 within 18 months with no continuing supervision.

14 (6) Whether or not the minor desires to be reunified
 15 with the offending parent or guardian.

16 (i) The court shall read into the record the basis for a
 17 finding of severe sexual abuse or the infliction of severe
 18 physical harm under paragraph (6) of subdivision (b),
 19 and shall also specify the factual findings used to
 20 determine that the provision of reunification services to
 21 the offending parent or guardian would not benefit the
 22 minor.

23 (j) This section shall remain in effect only until
 24 January 1, 1999, and as of that date is repealed, unless a
 25 later enacted statute, which is enacted on or before
 26 January 1, 1999, deletes or extends that date.

27 *SEC. 25. Section 361.5 of the Welfare and Institutions*
 28 *Code is amended to read:*

29 361.5. (a) Except as provided in subdivision (b) of
 30 this section or when the parent has voluntarily
 31 relinquished the minor and the relinquishment has been
 32 filed with the State Department of Social Services, or
 33 upon the establishment of an order of guardianship
 34 pursuant to Section 360, whenever a minor is removed
 35 from a parent’s or guardian’s custody, the juvenile court
 36 shall order the ~~probation officer~~ *social worker* to provide
 37 child welfare services to the minor and the minor’s
 38 mother and statutorily presumed father, or guardians.
 39 Upon a finding and declaration of paternity by the
 40 juvenile court or proof of a prior declaration of paternity



1 by any court of competent jurisdiction, the juvenile court
2 may order services for the minor and the biological
3 father, if the court determines that the services will
4 benefit the child. Child welfare services, when provided,
5 shall be provided as follows:

6 (1) For a minor who, on the date of initial removal
7 from the physical custody of his or her parent or guardian,
8 was three years of age or older, court-ordered services
9 shall not exceed a period of 12 months.

10 (2) For a minor who, on the date of initial removal
11 from the physical custody of his or her parent or guardian,
12 was under the age of three years, court-ordered services
13 shall not exceed a period of six months.

14 However, court-ordered services may be extended up
15 to a maximum time period not to exceed 18 months if it
16 can be shown that the objectives of the service plan can
17 be achieved within the extended time period. The court
18 shall extend the time period only if it finds that there is
19 a substantial probability that the minor will be returned
20 to the physical custody of his or her parent or guardian
21 within the extended time period or that reasonable
22 services have not been provided to the parent or
23 guardian. If the court extends the time period, the court
24 shall specify the factual basis for its conclusion that there
25 is a substantial probability that the minor will be returned
26 to the physical custody of his or her parent or guardian
27 within the extended time period. The court also shall
28 make findings pursuant to subdivision (a) of Section 366.
29 When counseling or other treatment services are
30 ordered, the parent or guardian shall be ordered to
31 participate in those services, unless the parent's or
32 guardian's participation is deemed by the court to be
33 inappropriate or potentially detrimental to the minor.
34 Physical custody of the minor by the parents or guardians
35 during the 18-month period shall not serve to interrupt
36 the running of the period. If at the end of the 18-month
37 period, a minor cannot be safely returned to the care and
38 custody of a parent or guardian without court supervision,
39 but the minor clearly desires contact with the parent or



1 guardian, the court shall take the child's desire into
2 account in devising a permanency plan.

3 In cases where the minor was under the age of three
4 years on the date of the initial removal from the physical
5 custody of his or her parent or guardian, the court shall
6 inform the parent or guardian that the failure of the
7 parent or guardian to participate regularly in any
8 court-ordered treatment programs or to cooperate or
9 avail himself or herself of services provided as part of the
10 child welfare services case plan may result in a
11 termination of efforts to reunify the family after six
12 months.

13 Except in cases where, pursuant to subdivision (b), the
14 court does not order reunification services, the court shall
15 inform the parent or parents of Section 366.25 or 366.26
16 and shall specify that the parent's or parents' parental
17 rights may be terminated.

18 (b) Reunification services need not be provided to a
19 parent or guardian described in this subdivision when the
20 court finds, by clear and convincing evidence, any of the
21 following:

22 (1) That the whereabouts of the parent or guardian is
23 unknown. A finding pursuant to this paragraph shall be
24 supported by an affidavit or by proof that a reasonably
25 diligent search has failed to locate the parent or guardian.
26 The posting or publication of notices is not required in
27 that search.

28 (2) That the parent or guardian is suffering from a
29 mental disability that is described in Chapter 2
30 (commencing with Section 7820) of Part 4 of Division 12
31 of the Family Code and that renders him or her incapable
32 of utilizing those services.

33 (3) That the minor or a sibling of the minor has been
34 previously adjudicated a dependent pursuant to any
35 subdivision of Section 300 as a result of physical or sexual
36 abuse, that following that adjudication the minor had
37 been removed from the custody of his or her parent or
38 guardian pursuant to Section 361, that the minor has been
39 returned to the custody of the parent or guardian from
40 whom the minor had been taken originally, and that the



1 minor is being removed pursuant to Section 361, due to
2 additional physical or sexual abuse.

3 (4) That the parent or guardian of the minor has
4 caused the death of another minor through abuse or
5 neglect.

6 (5) That the minor was brought within the jurisdiction
7 of the court under subdivision (c) of Section 300 because
8 of the conduct of that parent or guardian.

9 (6) That the minor has been adjudicated a dependent
10 pursuant to any subdivision of Section 300 as a result of
11 severe sexual abuse or the infliction of severe physical
12 harm to the minor, a sibling, or a half-sibling by a parent
13 or guardian, as defined in this subdivision, and the court
14 makes a factual finding that it would not benefit the
15 minor to pursue reunification services with the offending
16 parent or guardian.

17 A finding of severe sexual abuse, for the purposes of this
18 subdivision, may be based on, but is not limited to, sexual
19 intercourse, or stimulation involving genital-genital,
20 oral-genital, anal-genital, or oral-anal contact, whether
21 between the parent or guardian and the minor or a sibling
22 or half-sibling of the minor, or between the minor or a
23 sibling or half-sibling of the minor and another person or
24 animal with the actual or implied consent of the parent
25 or guardian; or the penetration or manipulation of the
26 minor's, sibling's, or half-sibling's genital organs or
27 rectum by any animate or inanimate object for the sexual
28 gratification of the parent or guardian, or for the sexual
29 gratification of another person with the actual or implied
30 consent of the parent or guardian.

31 A finding of the infliction of severe physical harm, for
32 the purposes of this subdivision, may be based on, but is
33 not limited to, deliberate and serious injury inflicted to or
34 on a minor's body or the body of a sibling or half-sibling
35 of the minor by an act or omission of the parent or
36 guardian, or of another individual or animal with the
37 consent of the parent or guardian; deliberate and
38 torturous confinement of the minor, sibling, or
39 half-sibling in a closed space; or any other torturous act or



1 omission which would be reasonably understood to cause
2 serious emotional damage.

3 (7) That the parent is not receiving reunification
4 services for a sibling or a half-sibling of the minor
5 pursuant to paragraph (3), (5), or (6).

6 (8) That the minor was conceived by means of the
7 commission of an offense listed in Section 288 or 288.5 of
8 the Penal Code, or by an act committed outside of this
9 state which if committed in this state would constitute
10 such an offense. This paragraph only applies to the parent
11 who committed the offense or act.

12 (9) That the minor has been found to be a child
13 described in subdivision (g) of Section 300, that the
14 parent or guardian of the minor willfully abandoned the
15 minor, and the court finds that the abandonment itself
16 constituted a serious danger to the child. For the purposes
17 of this paragraph, “serious danger” means that without
18 the intervention of another person or agency, the minor
19 would have sustained severe or permanent disability,
20 injury, illness, or death. For purposes of this paragraph,
21 “willful abandonment” shall not be construed as actions
22 taken in good faith by the parent without the intent of
23 placing the minor in serious danger.

24 (10) That (A) the court ordered a permanent plan of
25 adoption, guardianship, or long-term foster care for any
26 siblings or half-siblings of the minor because the parent
27 or guardian failed to reunify with the sibling or
28 half-sibling after the sibling or half-sibling had been
29 removed from that parent or guardian pursuant to
30 Section 361 and that parent or guardian is the same parent
31 or guardian described in subdivision (a), or (B) the
32 parental rights of a parent or guardian over any sibling or
33 half-sibling of the minor had been permanently severed,
34 and that, according to the findings of the court, this
35 parent or guardian has not subsequently made a
36 reasonable effort to treat the problems that led to
37 removal of the sibling or half-sibling of that minor from
38 that parent or guardian.



1 (11) That the parent or guardian has been convicted
2 of a violent felony, as defined in subdivision (c) of Section
3 667.5 of the Penal Code.

4 (12) That the parent or guardian of the minor has a
5 history of extensive, abusive, and chronic use of drugs or
6 alcohol and has resisted prior treatment for this problem
7 during a three-year period immediately prior to the filing
8 of the petition which brought that minor to the court's
9 attention, or has failed or refused to comply with a
10 program of drug or alcohol treatment described in the
11 case plan required by Section 358.1 on at least two prior
12 occasions, even though the programs identified were
13 available and accessible.

14 (13) That the parent or guardian of the minor has
15 advised the court that he or she is not interested in
16 receiving family maintenance or family reunification
17 services or having the minor returned to or placed in his
18 or her custody and does not wish to receive family
19 maintenance or reunification services.

20 The parent or guardian shall be represented by counsel
21 and shall execute a waiver of services form to be adopted
22 by the Judicial Council. The court shall advise the parent
23 or guardian of any right to services and of the possible
24 consequences of a waiver of services, including the
25 termination of parental rights and placement of the child
26 for adoption. The court shall not accept the waiver of
27 services unless it states on the record its finding that the
28 parent or guardian has knowingly and intelligently
29 waived the right to services.

30 (c) In deciding whether to order reunification in any
31 case in which this section applies, the court shall hold a
32 dispositional hearing. The probation officer shall prepare
33 a report which discusses whether reunification services
34 shall be provided. When it is alleged, pursuant to
35 paragraph (2) of subdivision (b), that the parent is
36 incapable of utilizing services due to mental disability,
37 the court shall order reunification services unless
38 competent evidence from mental health professionals
39 establishes that, even with the provision of services, the



1 parent is unlikely to be capable of adequately caring for
2 the minor within 12 months.

3 The court shall not order reunification for a parent or
4 guardian described in paragraph (3), (4), (6), (7), (8),
5 (9), (10), (11), (12), or (13) of subdivision (b) unless the
6 court finds, by clear and convincing evidence, that
7 reunification is in the best interest of the minor.

8 In addition, the court shall not order reunification in
9 any situation described in paragraph (5) of subdivision
10 (b) unless it finds that, based on competent testimony,
11 those services are likely to prevent reabuse or continued
12 neglect of the minor or that failure to try reunification
13 will be detrimental to the minor because the minor is
14 closely and positively attached to that parent. The
15 ~~probation officer~~ *social worker* shall investigate the
16 circumstances leading to the removal of the minor and
17 advise the court whether there are circumstances which
18 indicate that reunification is likely to be successful or
19 unsuccessful and whether failure to order reunification is
20 likely to be detrimental to the minor.

21 The failure of the parent to respond to previous
22 services, the fact that the minor was abused while the
23 parent was under the influence of drugs or alcohol, a past
24 history of violent behavior, or testimony by a competent
25 professional that the parent's behavior is unlikely to be
26 changed by services are among the factors indicating that
27 reunification services are unlikely to be successful. The
28 fact that a parent or guardian is no longer living with an
29 individual who severely abused the minor may be
30 considered in deciding that reunification services are
31 likely to be successful, provided that the court shall
32 consider any pattern of behavior on the part of the parent
33 that has exposed the minor to repeated abuse.

34 (d) If reunification services are not ordered pursuant
35 to paragraph (1) of subdivision (b) and the whereabouts
36 of a parent become known within six months of the
37 out-of-home placement of the minor, the court shall order
38 the ~~probation officer~~ *social worker* to provide family
39 reunification services in accordance with this subdivision.



1 However, the time limits specified in subdivision (a) and
2 Section 366.25 are not tolled by the parent's absence.

3 (e) (1) If the parent or guardian is incarcerated or
4 institutionalized, the court shall order reasonable services
5 unless the court determines, by clear and convincing
6 evidence, those services would be detrimental to the
7 minor. In determining detriment, the court shall consider
8 the age of the minor, the degree of parent-child bonding,
9 the length of the sentence, the nature of the treatment,
10 the nature of crime or illness, the degree of detriment to
11 the minor if services are not offered and, for minors 10
12 years of age or older, the minor's attitude toward the
13 implementation of family reunification services, and any
14 other appropriate factors. Reunification services are
15 subject to the 18-month limitation imposed in subdivision
16 (a). Services may include, but shall not be limited to, all
17 of the following:

18 (A) Maintaining contact between the parent and
19 minor through collect telephone calls.

20 (B) Transportation services, where appropriate.

21 (C) Visitation services, where appropriate.

22 (D) Reasonable services to extended family members
23 or foster parents providing care for the minor if the
24 services are not detrimental to the minor.

25 An incarcerated parent may be required to attend
26 counseling, parenting classes, or vocational training
27 programs as part of the service plan if these programs are
28 available.

29 (2) The presiding judge of the juvenile court of each
30 county may convene representatives of the county
31 welfare department, the sheriff's department, and other
32 appropriate entities for the purpose of developing and
33 entering into protocols for ensuring the notification,
34 transportation, and presence of an incarcerated or
35 institutionalized parent at all court hearings involving
36 proceedings affecting the minor pursuant to Section 2625
37 of the Penal Code.

38 (3) Notwithstanding any other provision of law, if the
39 incarcerated parent is a woman seeking to participate in
40 the community treatment program operated by the



1 Department of Corrections pursuant to Chapter 4.8
2 (commencing with Section 1174) of Title 7 of Part 2 of,
3 Chapter 4 (commencing with Section 3410) of Title 2 of
4 Part 3 of, the Penal Code, the court shall determine
5 whether the parent's participation in a program is in the
6 child's best interest and whether it is suitable to meet the
7 needs of the parent and child.

8 (f) If a court, pursuant to paragraph (2), (3), (4), (5),
9 (6), (7), (8), (9), (10), (11), (12), or (13) of subdivision
10 (b) or paragraph (1) of subdivision (e), does not order
11 reunification services, it shall conduct a hearing pursuant
12 to Section 366.25 or 366.26 within 120 days of the
13 dispositional hearing. However, the court shall not
14 schedule a hearing so long as the other parent is being
15 provided reunification services pursuant to subdivision
16 (a). The court may continue to permit the parent to visit
17 the minor unless it finds that visitation would be
18 detrimental to the minor.

19 (g) Whenever a court orders that a hearing shall be
20 held pursuant to Section 366.25 or 366.26, it shall direct the
21 agency supervising the minor and the licensed county
22 adoption agency, or the State Department of Social
23 Services when it is acting as an adoption agency in
24 counties which are not served by a county adoption
25 agency, to prepare an assessment which shall include:

26 (1) Current search efforts for an absent parent or
27 parents.

28 (2) A review of the amount of and nature of any
29 contact between the minor and his or her parents since
30 the time of placement.

31 (3) An evaluation of the minor's medical,
32 development, scholastic, mental, and emotional status.

33 (4) A preliminary assessment of the eligibility and
34 commitment of any identified prospective adoptive
35 parent or guardian, particularly the caretaker, to include
36 a social history including screening for criminal records
37 and prior referrals for child abuse or neglect, the
38 capability to meet the minor's needs, and the
39 understanding of the legal and financial rights and
40 responsibilities of adoption and guardianship.



1 (5) The relationship of the minor to any identified
2 prospective adoptive parent or guardian, the duration
3 and character of the relationship, the motivation for
4 seeking adoption or guardianship, and a statement from
5 the minor concerning placement and the adoption or
6 guardianship, unless the minor's age or physical,
7 emotional, or other condition precludes his or her
8 meaningful response, and if so, a description of the
9 condition.

10 (6) An analysis of the likelihood that the minor will be
11 adopted if parental rights are terminated.

12 (h) In determining whether reunification services will
13 benefit the minor pursuant to paragraph (6) or (7) of
14 subdivision (b), the court shall consider any information
15 it deems relevant, including the following factors:

16 (1) The specific act or omission comprising the severe
17 sexual abuse or the severe physical harm inflicted on the
18 minor or the minor's sibling or half-sibling.

19 (2) The circumstances under which the abuse or harm
20 was inflicted on the minor or the minor's sibling or
21 half-sibling.

22 (3) The severity of the emotional trauma suffered by
23 the minor or the minor's sibling or half-sibling.

24 (4) Any history of abuse of other children by the
25 offending parent or guardian.

26 (5) The likelihood that the minor may be safely
27 returned to the care of the offending parent or guardian
28 within 18 months with no continuing supervision.

29 (6) Whether or not the minor desires to be reunified
30 with the offending parent or guardian.

31 (i) The court shall read into the record the basis for a
32 finding of severe sexual abuse or the infliction of severe
33 physical harm under paragraph (6) of subdivision (b),
34 and shall also specify the factual findings used to
35 determine that the provision of reunification services to
36 the offending parent or guardian would not benefit the
37 minor.

38 (j) This section shall become operative January 1, 1999.

39 *SEC. 27. Section 362 of the Welfare and Institutions*
40 *Code is amended to read:*

1 362. (a) When a minor is adjudged a dependent child
2 of the court on the ground that the minor is a person
3 described by Section 300, the court may make any and all
4 reasonable orders for the care, supervision, custody,
5 conduct, maintenance, and support of the minor,
6 including medical treatment, subject to further order of
7 the court. To facilitate coordination and cooperation
8 among government agencies, the court may, after giving
9 notice and an opportunity to be heard, join in the juvenile
10 court proceedings any agency that the court determines
11 has failed to meet a legal obligation to provide services to
12 the minor. In any proceeding in which an agency is
13 joined, the court shall not impose duties upon the agency
14 beyond those mandated by law. Nothing in this section
15 shall prohibit agencies which have received notice of the
16 hearing on joinder from meeting prior to the hearing to
17 coordinate services for the minor.

18 The court has no authority to order services unless it has
19 been determined through the administrative process of
20 an agency that has been joined as a party, that the minor
21 is eligible for those services. With respect to mental
22 health assessment, treatment, and case management
23 services pursuant to Chapter 26.5 (commencing with
24 Section 7570) of Division 7 of Title 1 of the Government
25 Code, the court's determination shall be limited to
26 whether the agency has complied with that chapter.

27 (b) When a minor is adjudged a dependent child of the
28 court, on the ground that the minor is a person described
29 by Section 300 and the court orders that a parent or
30 guardian shall retain custody of the minor subject to the
31 supervision of the ~~probation officer~~ *social worker*, the
32 parents or guardians shall be required to participate in
33 child welfare services or services provided by an
34 appropriate agency designated by the court.

35 (c) The juvenile court may direct any and all
36 reasonable orders to the parents or guardians of the minor
37 who is the subject of any proceedings under this chapter
38 as the court deems necessary and proper to carry out the
39 provisions of this section, including orders to appear
40 before a county financial evaluation officer. Such an order



1 may include a direction to participate in a counseling or
2 education program, including, but not limited to, a parent
3 education and parenting program operated by a
4 community college, school district, or other appropriate
5 agency designated by the court. A foster parent or
6 relative with whom the minor is placed may be directed
7 to participate in such a program in cases in which the
8 court deems participation is appropriate and in the child's
9 best interest. The program in which a parent or guardian
10 is required to participate shall be designed to eliminate
11 those conditions that led to the court's finding that the
12 minor is a person described by Section 300.

13 *SEC. 28. Section 362.5 of the Welfare and Institutions*
14 *Code is repealed.*

15 ~~362.5. When a minor is adjudged a dependent child of~~
16 ~~the juvenile court of a demonstration county, on the~~
17 ~~ground that he is a person described by Section 300 or 302,~~
18 ~~the court may make any and all reasonable orders for the~~
19 ~~care, supervision, custody, conduct, maintenance, and~~
20 ~~support of such minor, including medical treatment,~~
21 ~~subject to further order of the court.~~

22 ~~The court may order the care, custody, control and~~
23 ~~conduct of such minor to be under the supervision of the~~
24 ~~probation officer or social worker in a county welfare~~
25 ~~department of a demonstration county designated~~
26 ~~pursuant to Section 272 or, if the minor is removed from~~
27 ~~the custody of his parents or guardians pursuant to~~
28 ~~Section 361.5, the court may commit such minor to the~~
29 ~~care, custody and control of:~~

30 ~~(a) Some reputable person of good moral character~~
31 ~~who consents to such commitment.~~

32 ~~(b) Some association, society, or corporation~~
33 ~~embracing within its objects the purpose of caring for~~
34 ~~such minors, with the consent of such association, society,~~
35 ~~or corporation.~~

36 ~~(c) The probation officer or social worker, to be~~
37 ~~boarded out or placed in some suitable family home or~~
38 ~~suitable private institution, subject to the requirements of~~
39 ~~Chapter 2 (commencing with Section 1250) or Chapter~~
40 ~~3 (commencing with Section 1500) of Division 2 of the~~



1 ~~Health and Safety Code; provided, however, that~~
2 ~~pending action by the State Department of Social~~
3 ~~Services, the placement of a minor in a home certified as~~
4 ~~meeting minimum standards for boarding homes by the~~
5 ~~probation officer or social worker shall be legal for all~~
6 ~~purposes.~~

7 ~~(d) Any other public agency organized to provide care~~
8 ~~for needy or neglected children.~~

9 ~~When a minor is adjudged a dependent child of the~~
10 ~~court, on the ground that he is a person described by~~
11 ~~Section 300 and the court orders that a parent or guardian~~
12 ~~shall retain custody of such minor subject to the~~
13 ~~supervision of the probation officer or social worker, the~~
14 ~~parent or guardian may be required, and may be ordered,~~
15 ~~to participate in a counseling program designated by the~~
16 ~~court. When a minor is adjudged a dependent child of the~~
17 ~~court on the ground that he is a person described by~~
18 ~~subdivision (d) of Section 300 and the court orders that~~
19 ~~a parent or guardian shall retain custody of such minor~~
20 ~~subject to the supervision of the probation officer or social~~
21 ~~worker, the parent or guardian shall be required to~~
22 ~~participate in a counseling program designated by the~~
23 ~~court.~~

24 *SEC. 29. Section 362.8 of the Welfare and Institutions*
25 *Code is amended to read:*

26 362.8. Before a child is placed with a nonrelative
27 extended family member, the following requirements
28 must be met:

29 (a) The county shall conduct an investigation of the
30 nonrelative extended family members, and all adults
31 residing in the home, which shall include at least the
32 following, and which shall be submitted to the court with
33 any request for a placement under this section:

34 (1) A home study.

35 (2) A child abuse index clearance.

36 (3) A determination that the nonrelative extended
37 family member has the capacity to provide care and
38 supervision for the child.

39 (4) A written certification by the social worker that
40 the home meets the health and safety needs of the child.



1 (5) Submission of a proposed plan for the supervision
2 of the minor in the nonrelative extended family home.

3 (6) A criminal background check from an appropriate
4 law enforcement agency to determine whether the
5 nonrelative extended family member and all other adults
6 residing in the home have ever been convicted of a crime
7 other than a minor traffic violation. If no criminal record
8 information has been located, the county shall provide
9 the court with a statement of that fact.

10 (7) Submission for a fingerprint clearance. Within 30
11 calendar days of the receipt of the fingerprints, the
12 Department of Justice shall notify the county of the
13 criminal record information, as provided for in paragraph
14 (6). The criminal history information shall include the full
15 criminal record of those persons, if any. If no criminal
16 record information has been recorded, the Department
17 of Justice shall provide the county with a statement of that
18 fact within 15 calendar days of receipt of the fingerprints.
19 If new fingerprints are required for processing, the
20 Department of Justice shall, within 15 calendar days from
21 the date of receipt of the fingerprints, notify the county
22 that the fingerprints were illegible.

23 (b) The court shall:

24 (1) Ensure that counsel is appointed for the minor
25 pursuant to Section 317 and is present at any hearing at
26 which a determination of placement is made.

27 (2) Determine that the nonrelative extended family
28 member or members are persons of good moral
29 character.

30 (3) Adopt a plan for the supervision of the minor
31 subject to placement by the ~~probation officer~~ *social*
32 *worker* or by any other public agency organized to
33 provide care for needy or neglected children. No
34 placement may be made under this section until the court
35 determines it can provide appropriate supervision of
36 minors as specified under this section.

37 (4) Determine that placement of the minor with this
38 nonrelative extended family member is in the best
39 interests of the child.



1 (5) After review of all records provided by the county,
2 consideration of the bond between the child and the
3 nonrelative extended family member, and consideration
4 of any criminal history, make the placement that is in the
5 best interests of the child. For purposes of this section the
6 best interests of the child shall be deemed to preclude any
7 placement that would be prohibited by Section 1522 of
8 the Health and Safety Code, as it relates to placement
9 with persons convicted of certain crimes. When
10 considering any criminal history, the court shall consider
11 the age at which a conviction occurred, the seriousness of
12 the conviction, the frequency of convictions, and the
13 length of time since a conviction.

14 (c) This section shall remain in effect only until
15 January 1, 2001, and as of that date is repealed, unless a
16 later enacted statute, that is enacted before January 1,
17 2001, deletes or extends that date.

18 *SEC. 30. Section 364 of the Welfare and Institutions*
19 *Code is amended to read:*

20 364. (a) Every hearing in which an order is made
21 placing a minor under the supervision of the juvenile
22 court pursuant to Section 300 and in which the minor is
23 not removed from the physical custody of his or her
24 parent or guardian shall be continued to a specific future
25 date not to exceed six months after the date of the original
26 dispositional hearing. The continued hearing shall be
27 placed on the appearance calendar. The court shall advise
28 all persons present of the date of the future hearings, of
29 their rights to be present, and to be represented by
30 counsel.

31 (b) At least 10 calendar days prior to the hearing, the
32 ~~probation officer~~ *social worker* shall file a supplemental
33 report with the court describing the services offered to
34 the family and the progress made by the family in
35 eliminating the conditions or factors requiring court
36 supervision. The ~~probation officer~~ *social worker* shall also
37 make a recommendation regarding the necessity of
38 continued supervision. A copy of this report shall be
39 furnished to all parties at least 10 calendar days prior to
40 the hearing.



1 (c) After hearing any evidence presented by the
2 ~~probation officer~~ *social worker*, the parent, the guardian,
3 or the minor, the court shall determine whether
4 continued supervision is necessary. The court shall
5 terminate its jurisdiction unless the ~~probation~~ *social*
6 *worker or his or her* department establishes by a
7 preponderance of evidence that the conditions still exist
8 which would justify initial assumption of jurisdiction
9 under Section 300, or that ~~such~~ *those* conditions are likely
10 to exist if supervision is withdrawn. Failure of the parent
11 or guardian to participate regularly in any court ordered
12 treatment program shall constitute prima facie evidence
13 that the conditions which justified initial assumption of
14 jurisdiction still exist and that continued supervision is
15 necessary.

16 (d) If the court retains jurisdiction it shall continue the
17 matter to a specified date, not more than six months from
18 the time of the hearing, at which point the court shall
19 again follow the procedure specified in subdivision (c).

20 (e) In any case in which the court has ordered that a
21 parent or guardian shall retain physical custody of a minor
22 subject to supervision by a ~~probation officer~~ *social*
23 *worker*, and the ~~probation officer~~ *social worker*
24 subsequently receives a report of acts or circumstances
25 which indicate that there is reasonable cause to believe
26 that the minor is a person described in subdivision (a),
27 (d), or (e) of Section 300, the ~~probation officer~~ *social*
28 *worker* shall commence proceedings under this chapter.
29 If, as a result of the proceedings required, the court finds
30 that the minor is a person described in subdivision (a),
31 (d), or (e) of Section 300, the court shall remove the
32 minor from the care, custody, and control of the minor's
33 parent or guardian and shall commit the minor to the
34 care, custody, and control of the ~~probation officer~~ *social*
35 *worker* pursuant to Section 361.

36 *SEC. 31. Section 365 of the Welfare and Institutions*
37 *Code is amended to read:*

38 365. The court may require the ~~probation officer~~
39 *social worker* or any other agency to render ~~such~~ *any*
40 periodic reports concerning minors committed to its



1 care, custody, and control under the provisions of Section
2 362 as the court ~~may deem~~ *deems* necessary or desirable.
3 The court may require that the ~~probation officer~~ *social*
4 *worker*, or any other public agency organized to provide
5 care for needy or neglected children, shall perform ~~such~~
6 visitation and make ~~such~~ periodic reports to the courts
7 concerning minors committed under ~~such~~ *those*
8 provisions as the court ~~may deem~~ *deems* necessary or
9 desirable.

10 *SEC. 32. Section 366.1 of the Welfare and Institutions*
11 *Code is amended to read:*

12 366.1. Each supplemental report required to be filed
13 pursuant to Section 366 shall include, but not be limited
14 to, a factual discussion of each of the following subjects:

15 (a) Whether the county welfare department or
16 ~~probation officer~~ *social worker* has considered child
17 protective services, as defined in Chapter 5
18 (commencing with Section 16500) of Part 4 of Division 9,
19 as a possible solution to the problems at hand, and has
20 offered those services to qualified parents if appropriate
21 under the circumstances.

22 (b) What plan, if any, for return of the child is
23 recommended to the court by the county welfare
24 department or ~~probation officer~~ *social worker*.

25 (c) Whether the subject child appears to be a person
26 who is eligible to be considered for further court action
27 to free the child from parental custody and control.

28 (d) What actions, if any, have been taken by the
29 parent to correct the problems which caused the child to
30 be made a dependent child of the court.

31 *SEC. 33. Section 366.2 of the Welfare and Institutions*
32 *Code is repealed.*

33 ~~366.2. (a) Every hearing conducted by the juvenile~~
34 ~~court reviewing the status of a dependent child shall be~~
35 ~~placed on the appearance calendar. The court shall advise~~
36 ~~all persons present at the hearing of the date of the future~~
37 ~~hearing, of their right to be present and represented by~~
38 ~~counsel.~~

39 ~~(b) Except as provided in Section 366.3, notice of the~~
40 ~~hearing shall be mailed by the probation officer to the~~



1 ~~same persons as in the original proceeding, to the minor's~~
2 ~~parent or guardian, to the foster parents, community care~~
3 ~~facility, or foster family agency having physical custody of~~
4 ~~the minor in the case of a minor removed from the~~
5 ~~physical custody of his or her parent or guardian, and to~~
6 ~~the counsel of record if the counsel of record was not~~
7 ~~present at the time that the hearing was set by the court,~~
8 ~~by first-class mail addressed to the last known address of~~
9 ~~the person to be notified, or shall be personally served on~~
10 ~~those persons, not earlier than 30 days nor later than 15~~
11 ~~days preceding the date to which the hearing was~~
12 ~~continued. Service of a copy of the notice personally or by~~
13 ~~certified mail return receipt requested, or any other form~~
14 ~~of actual notice is equivalent to service by first-class mail.~~

15 ~~(c) At least 10 calendar days prior to the hearing the~~
16 ~~probation officer shall file a supplemental report with the~~
17 ~~court regarding the services offered to the family, the~~
18 ~~progress made, and, where relevant, the prognosis for~~
19 ~~return of the minor to the physical custody of his or her~~
20 ~~parent or guardian, and make his or her recommendation~~
21 ~~for disposition. The probation officer shall provide the~~
22 ~~parent or parents with a copy of the report, including his~~
23 ~~or her recommendation for disposition, at least 10~~
24 ~~calendar days prior to the hearing. In the case of a minor~~
25 ~~removed from the physical custody of his or her parent or~~
26 ~~guardian, the probation officer shall provide a summary~~
27 ~~of his or her recommendation for disposition to the~~
28 ~~counsel for the minor, any court appointed child~~
29 ~~advocate, foster parents, community care facility, or~~
30 ~~foster family agency having the physical custody of the~~
31 ~~minor at least 10 calendar days before the hearing.~~

32 ~~(d) Prior to any hearing involving a minor in the~~
33 ~~physical custody of a community care facility or foster~~
34 ~~family agency that may result in the return of the minor~~
35 ~~to the physical custody of his or her parent or guardian,~~
36 ~~or in adoption or the creation of a legal guardianship, the~~
37 ~~facility or agency shall file with the court a report~~
38 ~~containing its recommendation for disposition. Prior to~~
39 ~~any such hearing involving a minor in the physical~~
40 ~~custody of a foster parent, the foster parent may file with~~



1 ~~the court a report containing its recommendation for~~
2 ~~disposition. The court shall consider any such report and~~
3 ~~recommendation prior to determining any disposition.~~

4 ~~(e) The court shall proceed as follows at the review~~
5 ~~hearing: The court shall order the return of the minor to~~
6 ~~the physical custody of his or her parents or guardians~~
7 ~~unless, by a preponderance of the evidence, it finds that~~
8 ~~the return of the child would create a substantial risk of~~
9 ~~detriment to the physical or emotional well-being of the~~
10 ~~minor. The probation department shall have the burden~~
11 ~~of establishing that detriment. The failure of the parent~~
12 ~~or guardian to participate regularly in any court-ordered~~
13 ~~treatment programs shall constitute prima facie evidence~~
14 ~~that return would be detrimental. In making its~~
15 ~~determination, the court shall review the probation~~
16 ~~officer's report and shall consider the efforts or progress,~~
17 ~~or both, demonstrated by the parent or guardian and the~~
18 ~~extent to which he or she cooperated and availed himself~~
19 ~~or herself of services provided; shall make appropriate~~
20 ~~findings; and where relevant, shall order any additional~~
21 ~~services reasonably believed to facilitate the return of the~~
22 ~~minor to the custody of his or her parent or guardian. The~~
23 ~~court shall also inform the parent or guardian that if the~~
24 ~~minor cannot be returned home by the next review~~
25 ~~hearing, a proceeding pursuant to Part 4 (commencing~~
26 ~~with Section 7800) of Division 12 of the Family Code may~~
27 ~~be instituted. This section does not apply in a case where,~~
28 ~~pursuant to Section 361.5, the court has ordered that~~
29 ~~reunification services shall not be provided.~~

30 ~~(f) This section shall apply only to minors made~~
31 ~~dependents of the court pursuant to subdivision (c) of~~
32 ~~Section 360 prior to January 1, 1989.~~

33 *SEC. 34. Section 366.21 of the Welfare and Institutions*
34 *Code is amended to read:*

35 366.21. (a) Every hearing conducted by the juvenile
36 court reviewing the status of a dependent child shall be
37 placed on the appearance calendar. The court shall advise
38 all persons present at the hearing of the date of the future
39 hearing and of their right to be present and represented
40 by counsel.



1 (b) Except as provided in Section 366.23 and
2 subdivision (a) of Section 366.3, notice of the hearing shall
3 be mailed by the ~~probation officer~~ *social worker* to the
4 same persons as in the original proceeding, to the minor's
5 parent or guardian, to the foster parents, community care
6 facility, or foster family agency having physical custody of
7 the minor in the case of a minor removed from the
8 physical custody of his or her parent or guardian, and to
9 the counsel of record if the counsel of record was not
10 present at the time that the hearing was set by the court,
11 by first-class mail addressed to the last known address of
12 the person to be notified, or shall be personally served on
13 those persons, not earlier than 30 days nor later than 15
14 days preceding the date to which the hearing was
15 continued. Service of a copy of the notice personally or by
16 certified mail return receipt requested, or any other form
17 of actual notice is equivalent to service by first-class mail.

18 The notice shall contain a statement regarding the
19 nature of the hearing to be held and any change in the
20 custody or status of the minor being recommended by the
21 supervising agency. The notice to the foster parent shall
22 indicate that the foster parent may attend all hearings or
23 may submit any information he or she deems relevant to
24 the court in writing.

25 (c) At least 10 calendar days prior to the hearing the
26 probation officer shall file a supplemental report with the
27 court regarding the services provided or offered to the
28 parent or guardian to enable them to assume custody and
29 the efforts made to achieve legal permanence for the
30 child if efforts to reunify fail, the progress made, and,
31 where relevant, the prognosis for return of the minor to
32 the physical custody of his or her parent or guardian, and
33 make his or her recommendation for disposition. If the
34 recommendation is not to return the minor to a parent or
35 guardian, the report shall specify why the return of the
36 minor would be detrimental to the minor. The ~~probation~~
37 ~~officer~~ *social worker* shall provide the parent or guardian
38 with a copy of the report, including his or her
39 recommendation for disposition, at least 10 calendar days
40 prior to the hearing. In the case of a minor removed from



1 the physical custody of his or her parent or guardian, the
2 ~~probation officer~~ *social worker* shall provide a summary
3 of his or her recommendation for disposition to the
4 counsel for the minor, any court-appointed child
5 advocate, foster parents, community care facility, or
6 foster family agency having the physical custody of the
7 minor at least 10 calendar days before the hearing.

8 (d) Prior to any hearing involving a minor in the
9 physical custody of a community care facility or foster
10 family agency that may result in the return of the minor
11 to the physical custody of his or her parent or guardian,
12 or in adoption or the creation of a legal guardianship, the
13 facility or agency shall file with the court a report
14 containing its recommendation for disposition. Prior to
15 ~~such a~~ *the* hearing involving a minor in the physical
16 custody of a foster parent, the foster parent may file with
17 the court a report containing his or her recommendation
18 for disposition. The court shall consider the report and
19 recommendation filed pursuant to this subdivision prior
20 to determining any disposition.

21 (e) At the review hearing held six months after the
22 initial dispositional hearing, the court shall order the
23 return of the minor to the physical custody of his or her
24 parent or guardian unless the court finds, by a
25 preponderance of the evidence, that the return of the
26 minor to his or her parent or guardian would create a
27 substantial risk of detriment to the safety, protection, or
28 physical or emotional well-being of the minor. The
29 ~~probation officer~~ *social worker* shall have the burden of
30 establishing that detriment. The failure of the parent or
31 guardian to participate regularly in court-ordered
32 treatment programs shall be prima facie evidence that
33 return would be detrimental. In making its
34 determination, the court shall review and consider the
35 ~~probation officer's~~ *social worker's* report and
36 recommendations and the report and recommendations
37 of any child advocate appointed pursuant to Section 356.5;
38 and shall consider the efforts or progress, or both,
39 demonstrated by the parent or guardian and the extent



1 to which he or she cooperated and availed himself or
2 herself of services provided.

3 Evidence of any or all of the following circumstances
4 shall not, in and of themselves, be deemed a failure to
5 provide or offer reasonable services:

6 (A) The child has been placed with a foster family that
7 is eligible to adopt a child, or has been placed in a
8 preadoptive home.

9 (B) The case plan includes services to achieve legal
10 permanence for the child if efforts to reunify fail.

11 (C) Services to achieve legal permanence for the
12 child, if efforts to reunify fail, are provided concurrently
13 with services to reunify the family.

14 Whether or not the minor is returned to a parent or
15 guardian, the court shall specify the factual basis for its
16 conclusion that the return would be detrimental or would
17 not be detrimental. The court also shall make appropriate
18 findings pursuant to subdivision (a) of Section 366; and
19 where relevant, shall order any additional services
20 reasonably believed to facilitate the return of the minor
21 to the custody of his or her parent or guardian. The court
22 shall also inform the parent or guardian that if the minor
23 cannot be returned home by the next review hearing, a
24 proceeding pursuant to Section 366.26 may be instituted.
25 This section does not apply in a case where, pursuant to
26 Section 361.5, the court has ordered that reunification
27 services shall not be provided.

28 If the minor was under the age of three years on the
29 date of the initial removal and the court finds by clear and
30 convincing evidence that the parent failed to participate
31 regularly in any court-ordered treatment plan, the court
32 may schedule a hearing pursuant to Section 366.26 within
33 120 days. If, however, the court finds there is a substantial
34 probability that the minor, who was under the age of
35 three years on the date of initial removal, may be
36 returned to his or her parent or guardian within six
37 months or that reasonable services have not been
38 provided, the court shall continue the case.

39 If the minor was removed initially under subdivision
40 (g) of Section 300 and the court finds by clear and



1 convincing evidence that the whereabouts of the parent
2 are still unknown, or the parent has failed to contact and
3 visit the minor, the court may schedule a hearing
4 pursuant to Section 366.26 within 120 days. If the court
5 finds by clear and convincing evidence that the parent
6 has been convicted of a felony indicating parental
7 unfitness, the court may schedule a hearing pursuant to
8 Section 366.26 within 120 days.

9 If the minor had been placed under court supervision
10 with a previously noncustodial parent pursuant to Section
11 361.2, the court shall determine whether supervision is
12 still necessary. The court may terminate supervision and
13 transfer permanent custody to that parent, as provided
14 for by paragraph (1) of subdivision (a) of Section 361.2.

15 In all other cases, the court shall direct that any
16 reunification services previously ordered shall continue
17 to be offered to the parent or guardian pursuant to the
18 time periods set forth in subdivision (a) of Section 361.5,
19 provided that the court may modify the terms and
20 conditions of those services. If the minor is not returned
21 to his or her parent or guardian, the court shall determine
22 whether reasonable services have been provided or
23 offered to the parent or guardian which were designed to
24 aid the parent or guardian in overcoming the problems
25 which led to the initial removal and the continued
26 custody of the minor. The court shall order that those
27 services be initiated, continued, or terminated.

28 (f) At the review hearing held 12 months after the
29 initial dispositional hearing, the court shall order the
30 return of the minor to the physical custody of his or her
31 parent or guardian unless the court finds, by a
32 preponderance of the evidence, that the return of the
33 minor to his or her parent or guardian would create a
34 substantial risk of detriment to the safety, protection, or
35 physical or emotional well-being of the minor. The
36 probation officer shall have the burden of establishing
37 that detriment. The court shall also determine whether
38 reasonable services have been provided or offered to the
39 parent or guardian which were designed to aid the parent
40 or guardian to overcome the problems that led to the



1 initial removal and continued custody of the minor. The
2 failure of the parent or guardian to participate regularly
3 in court-ordered treatment programs shall be prima facie
4 evidence that return would be detrimental. In making its
5 determination, the court shall review and consider the
6 ~~probation—officer's~~ *social worker's* report and
7 recommendations and the report and recommendations
8 of any child advocate appointed pursuant to Section 356.5;
9 shall consider the efforts or progress, or both,
10 demonstrated by the parent or guardian and the extent
11 to which he or she availed himself or herself of services
12 provided; and shall make appropriate findings pursuant
13 to subdivision (a) of Section 366.

14 Evidence of any or all of the following circumstances
15 shall not, in and of themselves, be deemed a failure to
16 provide or offer reasonable services:

17 (A) The child has been placed with a foster family that
18 is eligible to adopt a child, or has been placed in a
19 preadoptive home.

20 (B) The case plan includes services to achieve legal
21 permanence for the child if efforts to reunify fail.

22 (C) Services to achieve legal permanence for the
23 child, if efforts to reunify fail, are provided concurrently
24 with services to reunify the family.

25 Whether or not the minor is returned to his or her
26 parent or guardian, the court shall specify the factual basis
27 for its decision. If the minor is not returned to a parent or
28 guardian, the court shall specify the factual basis for its
29 conclusion that the return would be detrimental. The
30 court also shall make a finding pursuant to subdivision (a)
31 of Section 366.

32 (g) If the time period in which the court-ordered
33 services were provided has met or exceeded the time
34 period set forth in paragraph (1) or (2) of subdivision (a)
35 of Section 361.5, as appropriate, and a minor is not
36 returned to the custody of a parent or guardian at the
37 hearing held pursuant to subdivision (f), the court shall
38 do one of the following:

39 (1) Continue the case for up to six months for another
40 review hearing, provided that the hearing shall occur

1 within 18 months of the date the minor was originally
2 taken from the physical custody of his or her parent or
3 guardian. The court shall continue the case only if it finds
4 that there is a substantial probability that the minor will
5 be returned to the physical custody of his or her parent
6 or guardian within six months or that reasonable services
7 have not been provided to the parent or guardian. The
8 court shall inform the parent or guardian that if the minor
9 cannot be returned home by the next review hearing, a
10 permanent plan shall be developed at that hearing. The
11 court shall not order that a hearing pursuant to Section
12 366.26 be held unless there is clear and convincing
13 evidence that reasonable services have been provided or
14 offered to the parent or guardian.

15 (2) Order that the minor remain in long-term foster
16 care, if the court finds by clear and convincing evidence,
17 based upon the evidence already presented to it, that the
18 minor is not a proper subject for adoption and has no one
19 willing to accept legal guardianship.

20 (3) Order that a hearing be held within 120 days,
21 pursuant to Section 366.26, if there is clear and convincing
22 evidence that reasonable services have been provided or
23 offered to the parents.

24 Evidence of any or all of the following circumstances
25 shall not, in and of themselves, be deemed a failure to
26 provide or offer reasonable services:

27 (A) The child has been placed with a foster family that
28 is eligible to adopt a child, or has been placed in a
29 preadoptive home.

30 (B) The case plan includes services to achieve legal
31 permanence for the child if efforts to reunify fail.

32 (C) Services to achieve legal permanence for the
33 child, if efforts to reunify fail, are provided concurrently
34 with services to reunify the family.

35 (h) In any case in which the court orders that a hearing
36 pursuant to Section 366.26 shall be held, it shall also order
37 the termination of reunification services to the parent.
38 The court shall continue to permit the parent to visit the
39 minor pending the hearing unless it finds that visitation
40 would be detrimental to the minor.



1 (i) Whenever a court orders that a hearing pursuant to
2 Section 366.26 shall be held, it shall direct the agency
3 supervising the child and the licensed county adoption
4 agency, or the State Department of Social Services when
5 it is acting as an adoption agency in counties which are not
6 served by a county adoption agency, to prepare an
7 assessment regarding the likelihood that the minor will be
8 adopted if parental rights are terminated. The assessment
9 shall include:

10 (1) Current search efforts for an absent parent or
11 parents.

12 (2) A review of the amount of and nature of any
13 contact between the minor and his or her parents since
14 the time of placement.

15 (3) An evaluation of the minor's medical,
16 developmental, scholastic, mental, and emotional status
17 and an analysis of whether any of the minor's
18 characteristics would make it difficult to find a person
19 willing to adopt the minor.

20 (4) A preliminary assessment of the eligibility and
21 commitment of any identified prospective adoptive
22 parent or guardian, particularly the caretaker, to include
23 a social history including screening for criminal records
24 and prior referrals for child abuse or neglect, the
25 capability to meet the minor's needs, and the
26 understanding of the legal and financial rights and
27 responsibilities of adoption and guardianship.

28 (5) The relationship of the minor to any identified
29 prospective adoptive parent or guardian, the duration
30 and character of the relationship, the motivation for
31 seeking adoption or guardianship, and a statement from
32 the minor concerning placement and the adoption or
33 guardianship, unless the minor's age or physical,
34 emotional, or other condition precludes his or her
35 meaningful response, and if so, a description of the
36 condition.

37 (j) This section shall apply to minors made dependents
38 of the court pursuant to subdivision (c) of Section 360—~~on~~
39 ~~or after January 1, 1989.~~



1 (k) This section shall remain in effect only until
2 January 1, 1999, and as of that date is repealed, unless a
3 later enacted statute, which is enacted on or before
4 January 1, 1999, deletes or extends that date.

5 *SEC. 35. Section 366.21 of the Welfare and Institutions*
6 *Code is amended to read:*

7 366.21. (a) Every hearing conducted by the juvenile
8 court reviewing the status of a dependent child shall be
9 placed on the appearance calendar. The court shall advise
10 all persons present at the hearing of the date of the future
11 hearing and of their right to be present and represented
12 by counsel.

13 (b) Except as provided in Section 366.23 and
14 subdivision (a) of Section 366.3, notice of the hearing shall
15 be mailed by the ~~probation officer~~ *social worker* to the
16 same persons as in the original proceeding, to the minor's
17 parent or guardian, to the foster parents, community care
18 facility, or foster family agency having physical custody of
19 the minor in the case of a minor removed from the
20 physical custody of his or her parent or guardian, and to
21 the counsel of record if the counsel of record was not
22 present at the time that the hearing was set by the court,
23 by first-class mail addressed to the last known address of
24 the person to be notified, or shall be personally served on
25 those persons, not earlier than 30 days nor later than 15
26 days preceding the date to which the hearing was
27 continued. Service of a copy of the notice personally or by
28 certified mail return receipt requested, or any other form
29 of actual notice is equivalent to service by first-class mail.

30 The notice shall contain a statement regarding the
31 nature of the hearing to be held and any change in the
32 custody or status of the minor being recommended by the
33 supervising agency. The notice to the foster parent shall
34 indicate that the foster parent may attend all hearings or
35 may submit any information he or she deems relevant to
36 the court in writing.

37 (c) At least 10 calendar days prior to the hearing the
38 ~~probation officer~~ *social worker* shall file a supplemental
39 report with the court regarding the services provided or
40 offered to the parent or guardian to enable them to



1 assume custody and the efforts made to achieve legal
2 permanence for the child if efforts to reunify fail, the
3 progress made, and, where relevant, the prognosis for
4 return of the minor to the physical custody of his or her
5 parent or guardian, and make his or her recommendation
6 for disposition. If the recommendation is not to return the
7 minor to a parent or guardian, the report shall specify
8 why the return of the minor would be detrimental to the
9 minor. The ~~probation officer~~ *social worker* shall provide
10 the parent or guardian with a copy of the report,
11 including his or her recommendation for disposition, at
12 least 10 calendar days prior to the hearing. In the case of
13 a minor removed from the physical custody of his or her
14 parent or guardian, the ~~probation officer~~ *social worker*
15 shall provide a summary of his or her recommendation for
16 disposition to the counsel for the minor, any
17 court-appointed child advocate, foster parents,
18 community care facility, or foster family agency having
19 the physical custody of the minor at least 10 calendar days
20 before the hearing.

21 (d) Prior to any hearing involving a minor in the
22 physical custody of a community care facility or foster
23 family agency that may result in the return of the minor
24 to the physical custody of his or her parent or guardian,
25 or in adoption or the creation of a legal guardianship, the
26 facility or agency shall file with the court a report
27 containing its recommendation for disposition. Prior to
28 ~~such a~~ *the* hearing involving a minor in the physical
29 custody of a foster parent, the foster parent may file with
30 the court a report containing its recommendation for
31 disposition. The court shall consider the report and
32 recommendation filed pursuant to this subdivision prior
33 to determining any disposition.

34 (e) At the review hearing held six months after the
35 initial dispositional hearing, the court shall order the
36 return of the minor to the physical custody of his or her
37 parent or guardian unless the court finds, by a
38 preponderance of the evidence, that the return of the
39 minor to his or her parent or guardian would create a
40 substantial risk of detriment to the safety, protection, or



1 physical or emotional well-being of the minor. The
2 ~~probation officer~~ *social worker* shall have the burden of
3 establishing that detriment. The failure of the parent or
4 guardian to participate regularly in court-ordered
5 treatment programs shall be prima facie evidence that
6 return would be detrimental. In making its
7 determination, the court shall review and consider the
8 ~~probation officer's~~ *social worker's* report and
9 recommendations and the report and recommendations
10 of any child advocate appointed pursuant to Section 356.5;
11 and shall consider the efforts or progress, or both,
12 demonstrated by the parent or guardian and the extent
13 to which he or she availed himself or herself of services
14 provided.

15 Evidence of any or all of the following circumstances
16 shall not, in and of themselves, be deemed a failure to
17 provide or offer reasonable services:

18 (A) The child has been placed with a foster family that
19 is eligible to adopt a child, or has been placed in a
20 preadoptive home.

21 (B) The case plan includes services to achieve legal
22 permanence for the child if efforts to reunify fail.

23 (C) Services to achieve legal permanence for the
24 child, if efforts to reunify fail, are provided concurrently
25 with services to reunify the family.

26 Whether or not the minor is returned to a parent or
27 guardian, the court shall specify the factual basis for its
28 conclusion that the return would be detrimental or would
29 not be detrimental. The court also shall make appropriate
30 findings pursuant to subdivision (a) of Section 366; and
31 where relevant, shall order any additional services
32 reasonably believed to facilitate the return of the minor
33 to the custody of his or her parent or guardian. The court
34 shall also inform the parent or guardian that if the minor
35 cannot be returned home by the next review hearing, a
36 proceeding pursuant to Section 366.26 may be instituted.
37 This section does not apply in a case where, pursuant to
38 Section 361.5, the court has ordered that reunification
39 services shall not be provided.



1 If the minor was under the age of three years on the
2 date of the initial removal and the court finds by clear and
3 convincing evidence that the parent failed to participate
4 regularly in any court-ordered treatment plan, the court
5 may schedule a hearing pursuant to Section 366.26 within
6 120 days. If, however, the court finds there is a substantial
7 probability that the minor, who was under the age of
8 three years on the date of initial removal, may be
9 returned to his or her parent or guardian within six
10 months or that reasonable services have not been
11 provided, the court shall continue the case.

12 If the minor was removed initially under subdivision
13 (g) of Section 300 and the court finds by clear and
14 convincing evidence that the whereabouts of the parent
15 are still unknown, or the parent has failed to contact and
16 visit the minor, the court may schedule a hearing
17 pursuant to Section 366.26 within 120 days. If the court
18 finds by clear and convincing evidence that the parent
19 has been convicted of a felony indicating parental
20 unfitness, the court may schedule a hearing pursuant to
21 Section 366.26 within 120 days.

22 If the minor had been placed under court supervision
23 with a previously noncustodial parent pursuant to Section
24 361.2, the court shall determine whether supervision is
25 still necessary. The court may terminate supervision and
26 transfer permanent custody to that parent, as provided
27 for by paragraph (1) of subdivision (a) of Section 361.2.

28 In all other cases, the court shall direct that any
29 reunification services previously ordered shall continue
30 to be offered to the parent or guardian pursuant to the
31 time periods set forth in subdivision (a) of Section 361.5,
32 provided that the court may modify the terms and
33 conditions of those services.

34 If the minor is not returned to his or her parent or
35 guardian, the court shall determine whether reasonable
36 services have been provided or offered to the parent or
37 guardian which were designed to aid the parent or
38 guardian in overcoming the problems which led to the
39 initial removal and the continued custody of the minor.



1 The court shall order that those services be initiated,
2 continued, or terminated.

3 (f) At the review hearing held 12 months after the
4 initial dispositional hearing, the court shall order the
5 return of the minor to the physical custody of his or her
6 parent or guardian unless the court finds, by a
7 preponderance of the evidence, that the return of the
8 minor to his or her parent or guardian would create a
9 substantial risk of detriment to the safety, protection, or
10 physical or emotional well-being of the minor. The
11 ~~probation officer~~ *social worker* shall have the burden of
12 establishing that detriment. The failure of the parent or
13 guardian to participate regularly in court-ordered
14 treatment programs shall be prima facie evidence that
15 return would be detrimental. In making its
16 determination, the court shall review and consider the
17 ~~probation officer's~~ *social worker's* report and
18 recommendations and the report and recommendations
19 of any child advocate appointed pursuant to Section 356.5;
20 shall consider the efforts or progress, or both,
21 demonstrated by the parent or guardian and the extent
22 to which he or she availed himself or herself of services
23 provided; and shall make appropriate findings pursuant
24 to subdivision (a) of Section 366.

25 Evidence of any or all of the following circumstances
26 shall not, in and of themselves, be deemed a failure to
27 provide or offer reasonable services:

28 (A) The child has been placed with a foster family that
29 is eligible to adopt a child, or has been placed in a
30 preadoptive home.

31 (B) The case plan includes services to achieve legal
32 permanence for the child if efforts to reunify fail.

33 (C) Services to achieve legal permanence for the
34 child, if efforts to reunify fail, are provided concurrently
35 with services to reunify the family.

36 Whether or not the minor is returned to his or her
37 parent or guardian, the court shall specify the factual basis
38 for its decision. If the minor is not returned to a parent or
39 guardian, the court shall specify the factual basis for its
40 conclusion that the return would be detrimental. The



1 court also shall make a finding pursuant to subdivision (a)
2 of Section 366.

3 (g) If the time period in which the court-ordered
4 services were provided has met or exceeded the time
5 period set forth in paragraph (1) or (2) of subdivision (a)
6 of Section 361.5, as appropriate, and a minor is not
7 returned to the custody of a parent or guardian at the
8 hearing held pursuant to subdivision (f), the court shall
9 do one of the following:

10 (1) Continue the case for up to six months for another
11 review hearing, provided that the hearing shall occur
12 within 18 months of the date the minor was originally
13 taken from the physical custody of his or her parent or
14 guardian. The court shall continue the case only if it finds
15 that there is a substantial probability that the minor will
16 be returned to the physical custody of his or her parent
17 or guardian within six months or that reasonable services
18 have not been provided to the parent or guardian. The
19 court shall inform the parent or guardian that if the minor
20 cannot be returned home by the next review hearing, a
21 permanent plan shall be developed at that hearing. The
22 court shall not order that a hearing pursuant to Section
23 366.26 be held unless there is clear and convincing
24 evidence that reasonable services have been provided or
25 offered to the parent or guardian.

26 (2) Order that the minor remain in long-term foster
27 care, if the court finds by clear and convincing evidence,
28 based upon the evidence already presented to it, that the
29 minor is not a proper subject for adoption and has no one
30 willing to accept legal guardianship.

31 (3) Order that a hearing be held within 120 days,
32 pursuant to Section 366.26, if there is clear and convincing
33 evidence that reasonable services have been provided or
34 offered to the parents.

35 Evidence of any or all of the following circumstances
36 shall not, in and of themselves, be deemed a failure to
37 provide or offer reasonable services:

38 (A) The child has been placed with a foster family that
39 is eligible to adopt a child, or has been placed in a
40 preadoptive home.



1 (B) The case plan includes services to achieve legal
2 permanence for the child if efforts to reunify fail.

3 (C) Services to achieve legal permanence for the
4 child, if efforts to reunify fail, are provided concurrently
5 with services to reunify the family.

6 (h) In any case in which the court orders that a hearing
7 pursuant to Section 366.26 shall be held, it shall also order
8 the termination of reunification services to the parent.
9 The court shall continue to permit the parent to visit the
10 minor pending the hearing unless it finds that visitation
11 would be detrimental to the minor.

12 (i) Whenever a court orders that a hearing pursuant to
13 Section 366.26 shall be held, it shall direct the agency
14 supervising the minor and the licensed county adoption
15 agency, or the State Department of Social Services when
16 it is acting as an adoption agency in counties which are not
17 served by a county adoption agency, to prepare an
18 assessment which shall include:

19 (1) Current search efforts for an absent parent or
20 parents.

21 (2) A review of the amount of and nature of any
22 contact between the minor and his or her parents since
23 the time of placement.

24 (3) An evaluation of the minor's medical,
25 developmental, scholastic, mental, and emotional status.

26 (4) A preliminary assessment of the eligibility and
27 commitment of any identified prospective adoptive
28 parent or guardian, particularly the caretaker, to include
29 a social history including screening for criminal records
30 and prior referrals for child abuse or neglect, the
31 capability to meet the minor's needs, and the
32 understanding of the legal and financial rights and
33 responsibilities of adoption and guardianship.

34 (5) The relationship of the minor to any identified
35 prospective adoptive parent or guardian, the duration
36 and character of the relationship, the motivation for
37 seeking adoption or guardianship, and a statement from
38 the minor concerning placement and the adoption or
39 guardianship, unless the minor's age or physical,
40 emotional, or other condition precludes his or her



1 meaningful response, and if so, a description of the
2 condition.

3 (6) An analysis of the likelihood that the minor will be
4 adopted if parental rights are terminated.

5 (j) This section shall apply to minors made dependents
6 of the court pursuant to subdivision (c) of Section 360—~~on~~
7 ~~or after January 1, 1989.~~

8 (k) This section shall become operative January 1,
9 1999.

10 *SEC. 36. Section 366.22 of the Welfare and Institutions*
11 *Code is amended to read:*

12 366.22. (a) When a case has been continued pursuant
13 to paragraph (1) of subdivision (g) of Section 366.21, the
14 court, at the 18-month hearing, shall order the return of
15 the minor to the physical custody of his or her parent or
16 guardian unless the court finds, by a preponderance of
17 the evidence, that the return of the minor to his or her
18 parent or guardian would create a substantial risk of
19 detriment to the safety, protection, or physical or
20 emotional well-being of the minor. The probation officer
21 shall have the burden of establishing that detriment. The
22 failure of the parent or guardian to participate regularly
23 in court-ordered treatment programs shall be prima facie
24 evidence that return would be detrimental. In making its
25 determination, the court shall review and consider the
26 ~~probation officer's~~ *social worker's* report and
27 recommendations and the report and recommendations
28 of any child advocate appointed pursuant to Section 356.5;
29 shall consider the efforts or progress, or both,
30 demonstrated by the parent or guardian and the extent
31 to which he or she availed himself or herself of services
32 provided; and shall make appropriate findings pursuant
33 to subdivision (a) of Section 366.

34 Evidence of any or all of the following circumstances
35 shall not, in and of themselves, be deemed a failure to
36 provide or offer reasonable services:

37 (A) The child has been placed with a foster family that
38 is eligible to adopt a child, or has been placed in a
39 preadoptive home.



1 (B) The case plan includes services to achieve legal
2 permanence for the child if efforts to reunify fail.

3 (C) Services to achieve legal permanence for the
4 child, if efforts to reunify fail, are provided concurrently
5 with services to reunify the family.

6 Whether or not the minor is returned to his or her
7 parent or guardian, the court shall specify the factual basis
8 for its decision. If the minor is not returned to a parent or
9 guardian, the court shall specify the factual basis for its
10 conclusion that return would be detrimental.

11 If the minor is not returned to a parent or guardian at
12 the 18-month hearing, the court shall develop a
13 permanent plan. The court shall order that a hearing be
14 held pursuant to Section 366.26 in order to determine
15 whether adoption, guardianship, or long-term foster care
16 is the most appropriate plan for the minor. However, if
17 the court finds by clear and convincing evidence, based
18 on the evidence already presented to it that the minor is
19 not a proper subject for adoption and has no one willing
20 to accept legal guardianship, the court may order that the
21 minor remain in long-term foster care. The hearing shall
22 be held no later than 120 days from the date of the
23 18-month hearing. The court shall also order termination
24 of reunification services to the parent. The court shall
25 continue to permit the parent to visit the minor unless it
26 finds that visitation would be detrimental to the minor.
27 The court shall determine whether reasonable services
28 have been offered or provided to the parent or guardian.

29 (b) Whenever a court orders that a hearing pursuant
30 to Section 366.26 shall be held, it shall direct the agency
31 supervising the child and the licensed county adoption
32 agency, or the State Department of Social Services when
33 it is acting as an adoption agency in counties which are not
34 served by a county adoption agency, to prepare an
35 assessment regarding the likelihood that the minor will be
36 adopted if parental rights are terminated. The assessment
37 shall include:

38 (1) Current search efforts for an absent parent or
39 parents.



1 (2) A review of the amount of and nature of any
2 contact between the minor and his or her parents or other
3 members of his or her extended family since the time of
4 placement. Although the extended family of each minor
5 shall be reviewed on a case-by-case basis, “extended
6 family” for the purposes of this paragraph shall include,
7 but not be limited to, the minor’s siblings, grandparents,
8 aunts, and uncles.

9 (3) An evaluation of the minor’s medical,
10 developmental, scholastic, mental, and emotional status
11 and an analysis of whether any of the minor’s
12 characteristics would make it difficult to find a person
13 willing to adopt the minor.

14 (4) A preliminary assessment of the eligibility and
15 commitment of any identified prospective adoptive
16 parent or guardian, particularly the caretaker, to include
17 a social history including screening for criminal records
18 and prior referrals for child abuse or neglect, the
19 capability to meet the minor’s needs, and the
20 understanding of the legal and financial rights and
21 responsibilities of adoption and guardianship.

22 (5) The relationship of the minor to any identified
23 prospective adoptive parent or guardian, the duration
24 and character of the relationship, the motivation for
25 seeking adoption or guardianship, and a statement from
26 the minor concerning placement and the adoption or
27 guardianship, unless the minor’s age or physical,
28 emotional, or other condition precludes his or her
29 meaningful response, and if so, a description of the
30 condition.

31 (c) This section shall remain in effect only until
32 January 1, 1999, and as of that date is repealed, unless a
33 later enacted statute, which is enacted on or before
34 January 1, 1999, deletes or extends that date.

35 *SEC. 37. Section 366.22 of the Welfare and Institutions*
36 *Code is amended to read:*

37 366.22. (a) When a case has been continued pursuant
38 to paragraph (1) of subdivision (g) of Section 366.21, the
39 court, at the 18-month hearing, shall order the return of
40 the minor to the physical custody of his or her parent or



1 guardian unless the court finds, by a preponderance of
2 the evidence, that the return of the minor to his or her
3 parent or guardian would create a substantial risk of
4 detriment to the safety, protection, or physical or
5 emotional well-being of the minor. The ~~probation officer~~
6 *social worker* shall have the burden of establishing that
7 detriment. The failure of the parent or guardian to
8 participate regularly in court-ordered treatment
9 programs shall be prima facie evidence that return would
10 be detrimental. In making its determination, the court
11 shall review and consider the ~~probation officer's~~ *social*
12 *worker's* report and recommendations and the report
13 and recommendations of any child advocate appointed
14 pursuant to Section 356.5; shall consider the efforts or
15 progress, or both, demonstrated by the parent or
16 guardian and the extent to which he or she availed
17 himself or herself of services provided; and shall make
18 appropriate findings pursuant to subdivision (a) of
19 Section 366.

20 Evidence of any or all of the following circumstances
21 shall not, in and of themselves, be deemed a failure to
22 provide or offer reasonable services:

23 (A) The child has been placed with a foster family that
24 is eligible to adopt a child, or has been placed in a
25 preadoptive home.

26 (B) The case plan includes services to achieve legal
27 permanence for the child if efforts to reunify fail.

28 (C) Services to achieve legal permanence for the
29 child, if efforts to reunify fail, are provided concurrently
30 with services to reunify the family.

31 Whether or not the minor is returned to his or her
32 parent or guardian, the court shall specify the factual basis
33 for its decision. If the minor is not returned to a parent or
34 guardian, the court shall specify the factual basis for its
35 conclusion that return would be detrimental.

36 If the minor is not returned to a parent or guardian at
37 the 18-month hearing, the court shall develop a
38 permanent plan. The court shall order that a hearing be
39 held pursuant to Section 366.26 in order to determine
40 whether adoption, guardianship, or long-term foster care



1 is the most appropriate plan for the minor. However, if
2 the court finds by clear and convincing evidence, based
3 on the evidence already presented to it that the minor is
4 not a proper subject for adoption and has no one willing
5 to accept legal guardianship, the court may order that the
6 minor remain in long-term foster care. The hearing shall
7 be held no later than 120 days from the date of the
8 18-month hearing. The court shall also order termination
9 of reunification services to the parent. The court shall
10 continue to permit the parent to visit the minor unless it
11 finds that visitation would be detrimental to the minor.
12 The court shall determine whether reasonable services
13 have been offered or provided to the parent or guardian.

14 (b) Whenever a court orders that a hearing pursuant
15 to Section 366.26 shall be held, it shall direct the agency
16 supervising the child and the licensed county adoption
17 agency, or the State Department of Social Services when
18 it is acting as an adoption agency in counties which are not
19 served by a county adoption agency, to prepare an
20 assessment which shall include:

21 (1) Current search efforts for an absent parent or
22 parents.

23 (2) A review of the amount of and nature of any
24 contact between the minor and his or her parents or other
25 members of his or her extended family since the time of
26 placement. Although the extended family of each minor
27 shall be reviewed on a case-by-case basis, “extended
28 family” for the purposes of this paragraph shall include,
29 but not be limited to, the minor’s siblings, grandparents,
30 aunts, and uncles.

31 (3) An evaluation of the minor’s medical,
32 developmental, scholastic, mental, and emotional status.

33 (4) A preliminary assessment of the eligibility and
34 commitment of any identified prospective adoptive
35 parent or guardian, particularly the caretaker, to include
36 a social history including screening for criminal records
37 and prior referrals for child abuse or neglect, the
38 capability to meet the minor’s needs, and the
39 understanding of the legal and financial rights and
40 responsibilities of adoption and guardianship.

1 (5) The relationship of the minor to any identified
2 prospective adoptive parent or guardian, the duration
3 and character of the relationship, the motivation for
4 seeking adoption or guardianship, and a statement from
5 the minor concerning placement and the adoption or
6 guardianship, unless the minor's age or physical,
7 emotional, or other condition precludes his or her
8 meaningful response, and if so, a description of the
9 condition.

10 (6) An analysis of the likelihood that the minor will be
11 adopted if parental rights are terminated.

12 (c) This section shall become operative January 1,
13 1999.

14 *SEC. 38. Section 366.25 of the Welfare and Institutions*
15 *Code is repealed.*

16 ~~366.25. (a) In order to provide stable, permanent~~
17 ~~homes for children, a court shall, if the minor cannot be~~
18 ~~returned home pursuant to subdivision (e) of Section~~
19 ~~366.2, conduct a hearing to make a determination~~
20 ~~regarding the future status of the minor no later than 12~~
21 ~~months after the original dispositional hearing in which~~
22 ~~the child was removed from the custody of his or her~~
23 ~~parent, parents, or guardians, and in no case later than 18~~
24 ~~months from the time of the minor's original placement~~
25 ~~pursuant to Section 319 or 16507.4 and periodically, but no~~
26 ~~less frequently than once each 12 months thereafter~~
27 ~~during the continuation of foster care. The hearing may~~
28 ~~be combined with the six months' review as provided for~~
29 ~~in Section 366. In the case of a minor who comes within~~
30 ~~subdivision (b) of Section 361.5 and for whom the court~~
31 ~~has found that reunification services should not be~~
32 ~~provided, a hearing shall be held pursuant to Section~~
33 ~~361.5.~~

34 ~~(b) Notice of the proceeding to conduct the review~~
35 ~~shall be mailed by the probation officer to the same~~
36 ~~persons as in an original proceeding, to the minor's~~
37 ~~present custodian, and to the counsel of record, by~~
38 ~~certified mail addressed to the last known address of the~~
39 ~~person to be notified, or shall be personally served on~~



1 ~~those persons not earlier than 30 days, nor later than 15~~
2 ~~days prior to the date the review is to be conducted.~~

3 ~~(e) Except in cases where permanency planning is~~
4 ~~conducted pursuant to Section 361.5, the court shall first~~
5 ~~determine at the hearing whether the minor should be~~
6 ~~returned to his or her parent or guardian, pursuant to~~
7 ~~subdivision (c) of Section 366.2. If the minor is not~~
8 ~~returned to the custody of his or her parent or guardian~~
9 ~~the court shall determine whether there is a substantial~~
10 ~~probability that the minor will be returned to the physical~~
11 ~~custody of his or her parent or guardian within six months.~~
12 ~~If the court so determines it shall set another review~~
13 ~~hearing for not more than six months, which shall be a~~
14 ~~hearing pursuant to this section.~~

15 ~~(d) If the court determines that the minor cannot be~~
16 ~~returned to the physical custody of his or her parent or~~
17 ~~guardian and that there is not a substantial probability~~
18 ~~that the minor will be returned within six months, the~~
19 ~~court shall develop a permanent plan for the minor. In~~
20 ~~order to enable the minor to obtain a permanent home~~
21 ~~the court shall make the following determinations and~~
22 ~~orders:~~

23 ~~(1) If the court finds that it is likely that the minor can~~
24 ~~or will be adopted, the court shall authorize the~~
25 ~~appropriate county or state agency to proceed to free the~~
26 ~~minor from the custody and control of his or her parents~~
27 ~~or guardians pursuant to Part 4 (commencing with~~
28 ~~Section 7800) of Division 12 of the Family Code unless the~~
29 ~~court finds that any of the following conditions exist:~~

30 ~~(A) The parents or guardians have maintained regular~~
31 ~~visitation and contact with the minor and the minor~~
32 ~~would benefit from continuing this relationship.~~

33 ~~(B) A minor 12 years of age or older objects to~~
34 ~~termination of parental rights.~~

35 ~~(C) The minor's foster parents, including relative~~
36 ~~caretakers, are unable to adopt the minor because of~~
37 ~~exceptional circumstances which do not include an~~
38 ~~unwillingness to accept legal responsibility for the minor,~~
39 ~~but are willing and capable of providing the minor with~~
40 ~~a stable and permanent environment and the removal of~~



1 ~~the minor from the physical custody of his or her foster~~
2 ~~parents would be seriously detrimental to the emotional~~
3 ~~well-being of the minor.~~

4 ~~(2) If the court finds that it is not likely that the minor~~
5 ~~can or will be adopted or that one of the conditions in~~
6 ~~subparagraph (A), (B), or (C) of paragraph (1) applies,~~
7 ~~the court shall order the appropriate county department~~
8 ~~to initiate or facilitate the placement of the minor in a~~
9 ~~home environment that can be reasonably expected to be~~
10 ~~stable and permanent. This may be accomplished by~~
11 ~~initiating legal guardianship proceedings or long-term~~
12 ~~foster care. Legal guardianship shall be considered before~~
13 ~~long-term foster care, if it is in the best interests of the~~
14 ~~child and if a suitable guardian can be found. When the~~
15 ~~minor is in a foster home and the foster parents, including~~
16 ~~relative caretakers, are willing and capable of providing~~
17 ~~a stable and permanent environment, the minor shall not~~
18 ~~be removed from the home if the removal would be~~
19 ~~seriously detrimental to the emotional well-being of the~~
20 ~~minor because the minor has substantial psychological~~
21 ~~ties to the foster parents. The court shall also make orders~~
22 ~~for visitation with the parents or guardians unless the~~
23 ~~court finds by a preponderance of evidence that the~~
24 ~~visitation would be detrimental to the physical or~~
25 ~~emotional well-being of the minor.~~

26 ~~(3) (A) If the court finds that it is not likely that the~~
27 ~~minor can or will be adopted, that there is no suitable~~
28 ~~adult available to become the legal guardian of the minor,~~
29 ~~and that there are no suitable foster parents except~~
30 ~~certified homes available to provide the minor with a~~
31 ~~stable and permanent environment, the court may order~~
32 ~~the care, custody, and control of the minor transferred~~
33 ~~from the county welfare department or probation~~
34 ~~department to a licensed foster family agency. The court~~
35 ~~shall consider the written recommendation of the county~~
36 ~~welfare director or chief probation officer regarding the~~
37 ~~suitability of such a transfer. The transfer shall be subject~~
38 ~~to further court orders.~~

39 ~~(B) The licensed foster family agency shall only use a~~
40 ~~suitable licensed or other family home which has been~~



1 certified by the agency as meeting licensing standards.
2 When the care, custody, and control has been transferred
3 to a foster family agency, it shall be responsible for
4 supporting the minor and for providing appropriate
5 services to the minor, including those services ordered by
6 the court. Responsibility for support of the minor shall not
7 in and of itself create liability on the part of the foster
8 family agency to third persons injured by the minor.
9 Those minors whose care, custody, and control are
10 transferred to a foster family agency shall not be eligible
11 for foster care maintenance payments or child welfare
12 services, except for emergency response services
13 pursuant to Section 16504.

14 (C) Subsequent reviews for these minors shall be
15 conducted every six months by the court. The licensed
16 foster family agency shall be required to submit reports
17 for each minor in its care, custody, and control to the
18 court concerning the continuing appropriateness and
19 extent of compliance with the minor's permanent plan,
20 the extent of compliance with the case plan, and the type
21 and adequacy of services provided to the minor.

22 (e) The proceeding for the appointment of a guardian
23 for a minor who is a dependent child of the juvenile court
24 shall be in the juvenile court. The court shall receive into
25 evidence a report and recommendation concerning the
26 proposed guardianship. The report shall include, but not
27 be limited to, a discussion of all of the following:

28 (1) A social history of the proposed guardian,
29 including screening for criminal records and prior
30 referrals for child abuse or neglect.

31 (2) A social history of the minor, including an
32 assessment of any identified developmental, emotional,
33 psychological, or educational needs, and the capability of
34 the proposed guardian to meet those needs.

35 (3) The relationship of the minor to the proposed
36 guardian, the duration and character of the relationship,
37 the motivation for seeking guardianship rather than
38 adoption, the proposed guardian's long-term
39 commitment to provide a stable and permanent home for



1 ~~the minor, and a statement from the minor concerning~~
2 ~~the proposed guardianship.~~

3 ~~(4) The plan, if any, for the natural parents for~~
4 ~~continued involvement with the minor.~~

5 ~~(5) The proposed guardian's understanding of the~~
6 ~~legal and financial rights and responsibilities of~~
7 ~~guardianship.~~

8 ~~The report shall be read and considered by the court~~
9 ~~prior to ruling on the petition for guardianship, and this~~
10 ~~shall be reflected in the minutes of the court. The person~~
11 ~~preparing the report may be called and examined by any~~
12 ~~party to the proceeding.~~

13 ~~(f) Physical custody of a minor by his or her parents or~~
14 ~~guardians for insubstantial periods during the 12-month~~
15 ~~period prior to a permanency planning hearing shall not~~
16 ~~serve to interrupt the running of those periods.~~

17 ~~(g) Notwithstanding any other provision of law, the~~
18 ~~application of any person who, as a foster parent,~~
19 ~~including relative caretakers, has cared for a dependent~~
20 ~~child for whom the court has approved a permanent plan~~
21 ~~for adoption, or who has been freed for adoption, shall be~~
22 ~~given preference with respect to that child over all other~~
23 ~~applications for adoptive placement if the agency making~~
24 ~~the placement determines that the child has substantial~~
25 ~~emotional ties to the foster parent and removal from the~~
26 ~~foster parent would be seriously detrimental to the child's~~
27 ~~well-being.~~

28 ~~As used in this subdivision, "preference" means that~~
29 ~~the application shall be processed and, if satisfactory, the~~
30 ~~family study shall be completed before the processing of~~
31 ~~the application of any other person for the adoptive~~
32 ~~placement of the child.~~

33 ~~(h) Subsequent hearings need not be held if (1) the~~
34 ~~child has been freed for adoption and placed in the~~
35 ~~adoptive home identified in the previous hearing and is~~
36 ~~awaiting finalization of the adoption or (2) the child is the~~
37 ~~ward of a guardian.~~

38 ~~(i) This section applies to minors adjudged dependent~~
39 ~~children of the juvenile court pursuant to subdivision (c)~~
40 ~~of Section 360 prior to January 1, 1989.~~



1 ~~(j) An order by the court that authorizes the filing of~~
2 ~~a petition to terminate parental rights pursuant to Part 4~~
3 ~~(commencing with Section 7800) of Division 12 of the~~
4 ~~Family Code or that authorizes the initiation of~~
5 ~~guardianship proceedings is not an appealable order but~~
6 ~~may be the subject of review by extraordinary writ.~~

7 *SEC. 39. Section 366.26 of the Welfare and Institutions*
8 *Code is amended to read:*

9 366.26. (a) This section applies to minors who are
10 adjudged dependent children of the juvenile court
11 pursuant to subdivision (c) of Section 360 ~~on or after~~
12 ~~January 1, 1989~~. The procedures specified herein are the
13 exclusive procedures for conducting these hearings; Part
14 2 (commencing with Section 3020) of Division 8 of the
15 Family Code is not applicable to these proceedings.
16 Section 8714.7 of the Family Code is applicable and
17 available to all dependent children meeting the
18 requirements of that section. For minors who are
19 adjudged dependent children of the juvenile court
20 pursuant to subdivision (c) of Section 360 ~~on or after~~
21 ~~January 1, 1989~~, this section and Sections 8604, 8605, 8606,
22 and 8700 of the Family Code and Chapter 5 (commencing
23 with Section 7660) of Part 3 of Division 12 of the Family
24 Code specify the exclusive procedures for permanently
25 terminating parental rights with regard to, or establishing
26 legal guardianship of, the minor while the minor is a
27 dependent child of the juvenile court.

28 (b) At the hearing, which shall be held in juvenile
29 court for all minors who are dependents of the juvenile
30 court, the court, in order to provide stable, permanent
31 homes for these minors, shall review the report as
32 specified in Section 361.5, 366.21, or 366.22, shall indicate
33 that the court has read and considered it, shall receive
34 other evidence that the parties present, and then shall do
35 one of the following:

36 (1) Permanently terminate the rights of the parent or
37 parents and order that the minor be placed for adoption
38 and, upon the filing of a petition for adoption in the
39 juvenile court, order that a hearing be set. The court shall



1 proceed with the adoption after the appellate rights of
2 the natural parents have been exhausted.

3 (2) Without permanently terminating parental rights,
4 identify adoption as the permanent placement goal and
5 order that efforts be made to locate an appropriate
6 adoptive family for the minor within a period not to
7 exceed 90 days.

8 (3) Without permanently terminating parental rights,
9 appoint a legal guardian for the minor and issue letters of
10 guardianship.

11 (4) Order that the minor be placed in long-term foster
12 care, subject to the regular review of the juvenile court.

13 In choosing among the above alternatives the court
14 shall proceed pursuant to subdivision (c).

15 (c) At the hearing the court shall proceed pursuant to
16 one of the following procedures:

17 (1) The court shall terminate parental rights only if it
18 determines by clear and convincing evidence that it is
19 likely that the minor will be adopted based upon the
20 assessment made pursuant to subdivision (i) of Section
21 366.21 or subdivision (b) of Section 366.22. If the court so
22 determines, the findings pursuant to subdivision (b) or
23 paragraph (1) of subdivision (e) of Section 361.5 that
24 reunification services shall not be offered, or the findings
25 pursuant to subdivision (e) of Section 366.21 that the
26 whereabouts of a parent have been unknown for six
27 months or that the parent has failed to visit or contact the
28 minor for six months or that the parent has been
29 convicted of a felony indicating parental unfitness, or
30 pursuant to Section 366.21 or 366.22 that a minor cannot
31 or should not be returned to his or her parent or guardian,
32 shall then constitute a sufficient basis for termination of
33 parental rights unless the court finds that termination
34 would be detrimental to the minor due to one of the
35 following circumstances:

36 (A) The parents or guardians have maintained regular
37 visitation and contact with the minor and the minor
38 would benefit from continuing the relationship.

39 (B) A minor 12 years of age or older objects to
40 termination of parental rights.



1 (C) The minor is placed in a residential treatment
2 facility, adoption is unlikely or undesirable, and
3 continuation of parental rights will not prevent finding
4 the child a permanent family placement if the parents
5 cannot resume custody when residential care is no longer
6 needed.

7 (D) The minor is living with a relative or foster parent
8 who is unable or unwilling to adopt the minor because of
9 exceptional circumstances, which do not include an
10 unwillingness to accept legal or financial responsibility
11 for the minor, but who is willing and capable of providing
12 the minor with a stable and permanent environment and
13 the removal of the minor from the physical custody of his
14 or her relative or foster parent would be detrimental to
15 the emotional well-being of the minor. This subparagraph
16 does not apply to any minor, who is living with a
17 nonrelative and who is either (i) under six years of age or
18 (ii) a member of a sibling group where at least one minor
19 is under six years of age and the siblings are, or should be,
20 permanently placed together.

21 (2) The court shall not terminate parental rights if at
22 each and every hearing at which the court was required
23 to consider reasonable efforts or services, the court has
24 found that reasonable efforts were not made or that
25 reasonable services were not offered or provided.

26 (3) If the court finds that termination of parental
27 rights would not be detrimental to the minor pursuant to
28 paragraph (1) and that the minor has a probability for
29 adoption but is difficult to place for adoption and there
30 are no prospective adoptive homes available to the
31 minor, the court may identify adoption as the permanent
32 placement goal and without terminating parental rights,
33 order that efforts be made to locate an appropriate
34 adoptive family for the minor for a period not to exceed
35 90 days. During this 90-day period, the public agency
36 responsible for seeking adoptive parents, for each minor
37 shall, to the extent possible, contact other private and
38 public adoption agencies regarding the availability of the
39 minor for adoption. During the 90-day period, the public
40 agency shall conduct the search for adoptive parents in



1 the same manner as prescribed for children in Sections
2 8708 and 8709 of the Family Code. At the expiration of this
3 period, another hearing shall be held and the court shall
4 proceed pursuant to paragraph (1), (3), or (4) of
5 subdivision (b). For purposes of this section, a minor may
6 only be found to be difficult to place for adoption if there
7 are no prospective adoptive homes available to the minor
8 because of the minor's membership in a sibling group, or
9 the presence of a diagnosed medical, physical, or mental
10 handicap, or the minor is aged seven years or more, and
11 evidence presented to the court in the assessment made
12 pursuant to subdivision (i) of Section 366.21 or
13 subdivision (b) of Section 366.22 indicates that the
14 presence and severity of one or more of these factors
15 renders the minor difficult to place.

16 (4) If the court finds that adoption of the minor or
17 termination of parental rights is not in the interest of the
18 minor, because one of the conditions in subparagraph
19 (A), (B), (C), or (D) of paragraph (1) or in paragraph
20 (2) applies, the court shall either order that the present
21 caretakers or other appropriate persons shall become
22 legal guardians of the minor or order that the minor
23 remain in long-term foster care. Legal guardianship shall
24 be considered before long-term foster care, if it is in the
25 best interests of the minor and if a suitable guardian can
26 be found. When the minor is living with a relative or a
27 foster parent who is willing and capable of providing a
28 stable and permanent environment, but not willing to
29 become a legal guardian, the minor shall not be removed
30 from the home if the court finds the removal would be
31 seriously detrimental to the emotional well-being of the
32 minor because the minor has substantial psychological
33 ties to the relative caretaker or foster parents. The court
34 shall also make an order for visitation with the parents or
35 guardians unless the court finds by a preponderance of
36 the evidence that the visitation would be detrimental to
37 the physical or emotional well-being of the minor.

38 (5) If the court finds that the minor should not be
39 placed for adoption, that legal guardianship shall not be
40 established, and that there are no suitable foster parents



1 except exclusive-use homes available to provide the
2 minor with a stable and permanent environment, the
3 court may order the care, custody, and control of the
4 minor transferred from the county welfare department
5 or probation department to a licensed foster family
6 agency. The court shall consider the written
7 recommendation of the county welfare director or chief
8 probation officer regarding the suitability of ~~such~~^{a that}
9 transfer. The transfer shall be subject to further court
10 orders.

11 The licensed foster family agency shall place the minor
12 in a suitable licensed or exclusive-use home which has
13 been certified by the agency as meeting licensing
14 standards. The licensed foster family agency shall be
15 responsible for supporting the minor and for providing
16 appropriate services to the minor, including those
17 services ordered by the court. Responsibility for the
18 support of the minor shall not, in and of itself, create
19 liability on the part of the foster family agency to third
20 persons injured by the minor. Those minors whose care,
21 custody, and control are transferred to a foster family
22 agency shall not be eligible for foster care maintenance
23 payments or child welfare services, except for emergency
24 response services pursuant to Section 16504.

25 (d) The proceeding for the appointment of a guardian
26 for a minor who is a dependent of the juvenile court shall
27 be in the juvenile court. If the court finds pursuant to this
28 section that legal guardianship is the appropriate
29 permanency plan, it shall appoint the legal guardian and
30 issue letters of guardianship. The assessment prepared
31 pursuant to subdivision (g) of Section 361.5, subdivision
32 (i) of Section 366.21, and subdivision (b) of Section 366.22
33 shall be read and considered by the court prior to the
34 appointment, and this shall be reflected in the minutes of
35 the court. The person preparing the assessment may be
36 called and examined by any party to the proceeding.

37 (e) The proceeding for the adoption of a minor who is
38 a dependent of the juvenile court shall be in the juvenile
39 court if the court finds pursuant to this section that
40 adoption is the appropriate permanency plan and the



1 petition for adoption is filed in the juvenile court. Upon
2 the filing of a petition for adoption pursuant to Section
3 8714 of the Family Code, the juvenile court shall order
4 that an adoption hearing be set. The court shall proceed
5 with the adoption after the appellate rights of the natural
6 parents have been exhausted. The full report required by
7 Section 8715 of the Family Code shall be read and
8 considered by the court prior to the adoption and this
9 shall be reflected in the minutes of the court. The person
10 preparing the report may be called and examined by any
11 party to the proceeding. It is the intent of the Legislature,
12 pursuant to this subdivision, to give potential adoptive
13 parents the option of filing in the juvenile court the
14 petition for the adoption of a minor who is a dependent
15 of the juvenile court. Nothing in this section is intended
16 to prevent the filing of ~~such~~ a petition for adoption in any
17 other court as permitted by law, instead of in the juvenile
18 court.

19 (f) At the beginning of any proceeding pursuant to
20 this section, if the minor or the parents are not being
21 represented by previously retained or appointed counsel,
22 the court shall proceed as follows:

23 (1) The court shall consider whether the interests of
24 the minor require the appointment of counsel. If the
25 court finds that the interests of the minor do require this
26 protection, the court shall appoint counsel to represent
27 the minor. If the court finds that the interests of the minor
28 require the representation of counsel, counsel shall be
29 appointed whether or not the minor is able to afford
30 counsel. The minor shall not be present in court unless the
31 minor or the minor's counsel so requests or the court so
32 orders.

33 (2) If a parent appears without counsel and is unable
34 to afford counsel, the court shall appoint counsel for the
35 parent, unless this representation is knowingly and
36 intelligently waived. The same counsel shall not be
37 appointed to represent both the minor and his or her
38 parent. The public defender or private counsel may be
39 appointed as counsel for the parent.



1 (3) Private counsel appointed under this section shall
2 receive a reasonable sum for compensation and expenses,
3 the amount of which shall be determined by the court.
4 The amount shall be paid by the real parties in interest,
5 other than the minor, in any proportions the court deems
6 just. However, if the court finds that any of the real parties
7 in interest are unable to afford counsel, the amount shall
8 be paid out of the general fund of the county.

9 (g) The court may continue the proceeding for not to
10 exceed 30 days as necessary to appoint counsel, and to
11 enable counsel to become acquainted with the case.

12 (h) At all proceedings under this section, the court
13 shall consider the wishes of the minor and shall act in the
14 best interests of the minor.

15 The testimony of the minor may be taken in chambers
16 and outside the presence of the minor's parent or parents
17 if the minor's parent or parents are represented by
18 counsel, the counsel is present, and any of the following
19 circumstances exist:

20 (1) The court determines that testimony in chambers
21 is necessary to ensure truthful testimony.

22 (2) The minor is likely to be intimidated by a formal
23 courtroom setting.

24 (3) The minor is afraid to testify in front of his or her
25 parent or parents.

26 After testimony in chambers, the parent or parents of
27 the minor may elect to have the court reporter read back
28 the testimony or have the testimony summarized by
29 counsel for the parent or parents.

30 The testimony of a minor also may be taken in
31 chambers and outside the presence of the guardian or
32 guardians of a minor under the circumstances specified
33 in this subdivision.

34 (i) Any order of the court permanently terminating
35 parental rights under this section shall be conclusive and
36 binding upon the minor person, upon the parent or
37 parents and upon all other persons who have been served
38 with citation by publication or otherwise as provided in
39 this chapter. After making ~~such an~~ *that* order, the court
40 shall have no power to set aside, change, or modify it, but



1 nothing in this section shall be construed to limit the right
2 to appeal the order.

3 (j) If the court, by order or judgment declares the
4 minor free from the custody and control of both parents,
5 or one parent if the other does not have custody and
6 control, the court shall at the same time order the minor
7 referred to the State Department of Social Services or a
8 licensed adoption agency for adoptive placement by the
9 agency. However, no petition for adoption may be
10 granted until the appellate rights of the natural parents
11 have been exhausted. The State Department of Social
12 Services or licensed adoption agency shall be responsible
13 for the custody and supervision of the minor and shall be
14 entitled to the exclusive care and control of the minor at
15 all times until a petition for adoption is granted. With the
16 consent of the agency, the court may appoint a guardian
17 of the minor, who shall serve until the minor is adopted.

18 (k) Notwithstanding any other provision of law, the
19 application of any person who, as a relative caretaker or
20 foster parent, has cared for a dependent child for whom
21 the court has approved a permanent plan for adoption, or
22 who has been freed for adoption, shall be given
23 preference with respect to that minor over all other
24 applications for adoptive placement if the agency making
25 the placement determines that the minor has substantial
26 emotional ties to the relative caretaker or foster parent
27 and removal from the relative caretaker or foster parent
28 would be seriously detrimental to the minor's emotional
29 well-being.

30 As used in this subdivision, "preference" means that
31 the application shall be processed and, if satisfactory, the
32 family study shall be completed before the processing of
33 the application of any other person for the adoptive
34 placement of the minor.

35 (l) (1) An order by the court that a hearing pursuant
36 to this section be held is not appealable at any time unless
37 all of the following applies:

38 (A) A petition for extraordinary writ review was filed
39 in a timely manner.



1 (B) The petition substantively addressed the specific
2 issues to be challenged and supported that challenge by
3 an adequate record.

4 (C) The petition for extraordinary writ review was
5 summarily denied or otherwise not decided on the
6 merits.

7 (2) Failure to file a petition for extraordinary writ
8 review within the period specified by rule, to
9 substantively address the specific issues challenged, or to
10 support that challenge by an adequate record shall
11 preclude subsequent review by appeal of the findings and
12 orders made pursuant to this section.

13 (3) The Judicial Council shall adopt rules of court,
14 effective January 1, 1995, to ensure all of the following:

15 (A) A trial court, after issuance of an order directing
16 a hearing pursuant to this section be held, shall advise all
17 parties of the requirement of filing a petition for
18 extraordinary writ review as set forth in this subdivision
19 in order to preserve any right to appeal in these issues.
20 This notice shall be made orally to a party if they are
21 present at the time of the making of the order or by
22 first-class mail by the clerk of the court to the last known
23 address of a party not present at the time of the making
24 of the order.

25 (B) The prompt transmittal of the records from the
26 trial court to the appellate court.

27 (C) That adequate time requirements for counsel and
28 court personnel exist to implement the objective of this
29 subdivision.

30 (D) That the parent or guardian, or their trial counsel
31 or other counsel, is charged with the responsibility of
32 filing a petition for extraordinary writ relief pursuant to
33 this subdivision.

34 (4) The intent of this subdivision is to do both of the
35 following:

36 (A) Make every reasonable attempt to achieve a
37 substantive and meritorious review by the appellate
38 court within the time specified in Sections 366.21 and
39 366.22 for holding a hearing pursuant to this section.



1 (B) Encourage the appellate court to determine all
 2 writ petitions filed pursuant to this subdivision on their
 3 merits.

4 (5) This subdivision shall only apply to cases in which
 5 an order to set a hearing pursuant to this section is issued
 6 on or after January 1, 1995.

7 (m) This section shall remain in effect only until
 8 January 1, 1999, and as of that date is repealed, unless a
 9 later enacted statute, which is enacted on or before
 10 January 1, 1999, deletes or extends that date.

11 *SEC. 40. Section 366.26 of the Welfare and Institutions*
 12 *Code is amended to read:*

13 366.26. (a) This section applies to minors who are
 14 adjudged dependent children of the juvenile court
 15 pursuant to subdivision (c) of Section 360 ~~on or after~~
 16 ~~January 1, 1989~~. The procedures specified herein are the
 17 exclusive procedures for conducting these hearings; Part
 18 2 (commencing with Section 3020) of Division 8 of the
 19 Family Code is not applicable to these proceedings.
 20 Section 8714.7 of the Family Code is applicable and
 21 available to all dependent children meeting the
 22 requirements of that section. For minors who are
 23 adjudged dependent children of the juvenile court
 24 pursuant to subdivision (c) of Section 360 ~~on or after~~
 25 ~~January 1, 1989~~, this section and Sections 8604, 8605, 8606,
 26 and 8700 of the Family Code and Chapter 5 (commencing
 27 with Section 7660) of Part 3 of Division 12 of the Family
 28 Code specify the exclusive procedures for permanently
 29 terminating parental rights with regard to, or establishing
 30 legal guardianship of, the minor while the minor is a
 31 dependent child of the juvenile court.

32 (b) At the hearing, which shall be held in juvenile
 33 court for all minors who are dependents of the juvenile
 34 court, the court, in order to provide stable, permanent
 35 homes for these minors, shall review the report as
 36 specified in Section 361.5, 366.21, or 366.22, shall indicate
 37 that the court has read and considered it, shall receive
 38 other evidence that the parties present, and then shall do
 39 one of the following:



1 (1) Permanently terminate the rights of the parent or
2 parents and order that the minor be placed for adoption
3 and, upon the filing of a petition for adoption in the
4 juvenile court, order that a hearing be set. The court shall
5 proceed with the adoption after the appellate rights of
6 the natural parents have been exhausted.

7 (2) Without permanently terminating parental rights,
8 identify adoption as the permanent placement goal and
9 order that efforts be made to locate an appropriate
10 adoptive family for the minor for a period not to exceed
11 90 days.

12 (3) Without permanently terminating parental rights,
13 appoint a legal guardian for the minor and issue letters of
14 guardianship.

15 (4) Order that the minor be placed in long-term foster
16 care, subject to the regular review of the juvenile court.

17 In choosing among the above alternatives the court
18 shall proceed pursuant to subdivision (c).

19 (c) At the hearing the court shall proceed pursuant to
20 one of the following procedures:

21 (1) The court shall terminate parental rights only if it
22 determines by clear and convincing evidence that it is
23 likely that the minor will be adopted. If the court so
24 determines, the findings pursuant to subdivision (b) or
25 paragraph 1 of subdivision (e) of Section 361.5 that
26 reunification services shall not be offered, or the findings
27 pursuant to subdivision (e) of Section 366.21 that the
28 whereabouts of a parent have been unknown for six
29 months or that the parent has failed to visit or contact the
30 child for six months or that the parent has been convicted
31 of a felony indicating parental unfitness, or, pursuant to
32 Section 366.21 or 366.22, that a minor cannot or should not
33 be returned to his or her parent or guardian, shall then
34 constitute a sufficient basis for termination of parental
35 rights unless the court finds that termination would be
36 detrimental to the minor due to one of the following
37 circumstances:

38 (A) The parents or guardians have maintained regular
39 visitation and contact with the minor and the minor
40 would benefit from continuing the relationship.



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

3 (C) The minor is placed in a residential treatment
4 facility, adoption is unlikely or undesirable, and
5 continuation of parental rights will not prevent finding
6 the minor a permanent family placement if the parents
7 cannot resume custody when residential care is no longer
8 needed.

9 (D) The minor is living with a relative or foster parent
10 who is unable or unwilling to adopt the minor because of
11 exceptional circumstances, which do not include an
12 unwillingness to accept legal or financial responsibility
13 for the minor, but who is willing and capable of providing
14 the minor with a stable and permanent environment and
15 the removal of the minor from the physical custody of his
16 or her relative or foster parent would be detrimental to
17 the emotional well-being of the minor. This subparagraph
18 does not apply to any minor who is living with a
19 nonrelative and who is either (i) under six years of age or
20 (ii) a member of a sibling group where at least one minor
21 is under six years of age and the sibling is, or should be,
22 permanently placed together.

23 (2) The court shall not terminate parental rights if at
24 each and every hearing at which the court was required
25 to consider reasonable efforts or services, the court has
26 found that reasonable efforts were not made or that
27 reasonable services were not offered or provided.

28 (3) If the court finds that termination of parental
29 rights would not be detrimental to the minor pursuant to
30 paragraph (1) and that the minor has a probability for
31 adoption but is difficult to place for adoption and there is
32 no identified or available prospective adoptive parent,
33 the court may identify adoption as the permanent
34 placement goal and without terminating parental rights,
35 order that efforts be made to locate an appropriate
36 adoptive family for the minor for a period not to exceed
37 90 days. During this 90-day period, the public agency
38 responsible for seeking adoptive parents, for each minor
39 shall, to the extent possible, contact other private and
40 public adoption agencies regarding the availability of the



1 minor for adoption. During the 90-day period, the public
2 agency shall conduct the search for adoptive parents in
3 the same manner as prescribed for children in Sections
4 8708 and 8709 of the Family Code. At the expiration of this
5 period, another hearing shall be held and the court shall
6 proceed pursuant to paragraph (1), (3), or (4) of
7 subdivision (b). For purposes of this section, a minor may
8 only be found to be difficult to place for adoption if there
9 is no identified or available prospective adoptive parent
10 for the minor because of the minor's membership in a
11 sibling group, or the presence of a diagnosed medical,
12 physical, or mental handicap, or the minor is the age of
13 seven years or more.

14 (4) If the court finds that adoption of the minor or
15 termination of parental rights is not in the interest of the
16 minor, because one of the conditions in subparagraph
17 (A), (B), (C), or (D) of paragraph (1) or in paragraph
18 (2) applies, the court shall either order that the present
19 caretakers or other appropriate persons shall become
20 legal guardians of the minor or order that the minor
21 remain in long-term foster care. Legal guardianship shall
22 be considered before long-term foster care, if it is in the
23 best interests of the minor and if a suitable guardian can
24 be found. When the minor is living with a relative or a
25 foster parent who is willing and capable of providing a
26 stable and permanent environment, but not willing to
27 become a legal guardian, the minor shall not be removed
28 from the home if the court finds the removal would be
29 seriously detrimental to the emotional well-being of the
30 minor because the minor has substantial psychological
31 ties to the relative caretaker or foster parents. The court
32 shall also make an order for visitation with the parents or
33 guardians unless the court finds by a preponderance of
34 the evidence that the visitation would be detrimental to
35 the physical or emotional well-being of the minor.

36 (5) If the court finds that the minor should not be
37 placed for adoption, that legal guardianship shall not be
38 established, and that there are no suitable foster parents
39 except exclusive-use homes available to provide the
40 minor with a stable and permanent environment, the



1 court may order the care, custody, and control of the
2 minor transferred from the county welfare department
3 or probation department to a licensed foster family
4 agency. The court shall consider the written
5 recommendation of the county welfare director or chief
6 probation officer regarding the suitability of ~~such~~^a ~~that~~
7 transfer. The transfer shall be subject to further court
8 orders.

9 The licensed foster family agency shall place the minor
10 in a suitable licensed or exclusive-use home which has
11 been certified by the agency as meeting licensing
12 standards. The licensed foster family agency shall be
13 responsible for supporting the minor and for providing
14 appropriate services to the minor, including those
15 services ordered by the court. Responsibility for the
16 support of the minor shall not, in and of itself, create
17 liability on the part of the foster family agency to third
18 persons injured by the minor. Those minors whose care,
19 custody, and control are transferred to a foster family
20 agency shall not be eligible for foster care maintenance
21 payments or child welfare services, except for emergency
22 response services pursuant to Section 16504.

23 (d) The proceeding for the appointment of a guardian
24 for a minor who is a dependent of the juvenile court shall
25 be in the juvenile court. If the court finds pursuant to this
26 section that legal guardianship is the appropriate
27 permanency plan, it shall appoint the legal guardian and
28 issue letters of guardianship. The assessment prepared
29 pursuant to subdivision (g) of Section 361.5, subdivision
30 (i) of Section 366.21, and subdivision (b) of Section 366.22
31 shall be read and considered by the court prior to the
32 appointment, and this shall be reflected in the minutes of
33 the court. The person preparing the assessment may be
34 called and examined by any party to the proceeding.

35 (e) The proceeding for the adoption of a minor who is
36 a dependent of the juvenile court shall be in the juvenile
37 court if the court finds pursuant to this section that
38 adoption is the appropriate permanency plan and the
39 petition for adoption is filed in the juvenile court. Upon
40 the filing of a petition for adoption, the juvenile court



1 shall order that an adoption hearing be set. The court shall
2 proceed with the adoption after the appellate rights of
3 the natural parents have been exhausted. The full report
4 required by Section 8715 of the Family Code shall be read
5 and considered by the court prior to the adoption and this
6 shall be reflected in the minutes of the court. The person
7 preparing the report may be called and examined by any
8 party to the proceeding. It is the intent of the Legislature,
9 pursuant to this subdivision, to give potential adoptive
10 parents the option of filing in the juvenile court the
11 petition for the adoption of a minor who is a dependent
12 of the juvenile court. Nothing in this section is intended
13 to prevent the filing of ~~such a~~ *that* petition for adoption
14 in any other court as permitted by law, instead of in the
15 juvenile court.

16 (f) At the beginning of any proceeding pursuant to
17 this section, if the minor or the parents are not being
18 represented by previously retained or appointed counsel,
19 the court shall proceed as follows:

20 (1) The court shall consider whether the interests of
21 the minor require the appointment of counsel. If the
22 court finds that the interests of the minor do require this
23 protection, the court shall appoint counsel to represent
24 the minor. If the court finds that the interests of the minor
25 require the representation of counsel, counsel shall be
26 appointed whether or not the minor is able to afford
27 counsel. The minor shall not be present in court unless the
28 minor or the minor's counsel so requests or the court so
29 orders.

30 (2) If a parent appears without counsel and is unable
31 to afford counsel, the court shall appoint counsel for the
32 parent, unless this representation is knowingly and
33 intelligently waived. The same counsel shall not be
34 appointed to represent both the minor and his or her
35 parent. The public defender or private counsel may be
36 appointed as counsel for the parent.

37 (3) Private counsel appointed under this section shall
38 receive a reasonable sum for compensation and expenses,
39 the amount of which shall be determined by the court.
40 The amount shall be paid by the real parties in interest,



1 other than the minor, in any proportions the court deems
2 just. However, if the court finds that any of the real parties
3 in interest are unable to afford counsel, the amount shall
4 be paid out of the general fund of the county.

5 (g) The court may continue the proceeding for not to
6 exceed 30 days as necessary to appoint counsel, and to
7 enable counsel to become acquainted with the case.

8 (h) At all proceedings under this section, the court
9 shall consider the wishes of the minor and shall act in the
10 best interests of the minor.

11 The testimony of the minor may be taken in chambers
12 and outside the presence of the minor's parent or parents
13 if the minor's parent or parents are represented by
14 counsel, the counsel is present, and any of the following
15 circumstances exist:

16 (1) The court determines that testimony in chambers
17 is necessary to ensure truthful testimony.

18 (2) The minor is likely to be intimidated by a formal
19 courtroom setting.

20 (3) The minor is afraid to testify in front of his or her
21 parent or parents.

22 After testimony in chambers, the parent or parents of
23 the minor may elect to have the court reporter read back
24 the testimony or have the testimony summarized by
25 counsel for the parent or parents.

26 The testimony of a minor also may be taken in
27 chambers and outside the presence of the guardian or
28 guardians of a minor under the circumstances specified
29 in this subdivision.

30 (i) Any order of the court permanently terminating
31 parental rights under this section shall be conclusive and
32 binding upon the minor person, upon the parent or
33 parents and upon all other persons who have been served
34 with citation by publication or otherwise as provided in
35 this chapter. After making such an order, the court shall
36 have no power to set aside, change, or modify it, but
37 nothing in this section shall be construed to limit the right
38 to appeal the order.

39 (j) If the court, by order or judgment declares the
40 minor free from the custody and control of both parents,



1 or one parent if the other does not have custody and
2 control, the court shall at the same time order the minor
3 referred to the State Department of Social Services or a
4 licensed adoption agency for adoptive placement by the
5 agency. However, no petition for adoption may be
6 granted until the appellate rights of the natural parents
7 have been exhausted. The State Department of Social
8 Services or licensed adoption agency shall be responsible
9 for the custody and supervision of the minor and shall be
10 entitled to the exclusive care and control of the minor at
11 all times until a petition for adoption is granted. With the
12 consent of the agency, the court may appoint a guardian
13 of the minor, who shall serve until the minor is adopted.

14 (k) Notwithstanding any other provision of law, the
15 application of any person who, as a relative caretaker or
16 foster parent, has cared for a dependent child for whom
17 the court has approved a permanent plan for adoption, or
18 who has been freed for adoption, shall be given
19 preference with respect to that minor over all other
20 applications for adoptive placement if the agency making
21 the placement determines that the minor has substantial
22 emotional ties to the relative caretaker or foster parent
23 and removal from the relative caretaker or foster parent
24 would be seriously detrimental to the minor's emotional
25 well-being.

26 As used in this subdivision, "preference" means that
27 the application shall be processed and, if satisfactory, the
28 family study shall be completed before the processing of
29 the application of any other person for the adoptive
30 placement of the minor.

31 (l) (1) An order by the court that a hearing pursuant
32 to this section be held is not appealable at any time unless
33 all of the following applies:

34 (A) A petition for extraordinary writ review was filed
35 in a timely manner.

36 (B) The petition substantively addressed the specific
37 issues to be challenged and supported that challenge by
38 an adequate record.



1 (C) The petition for extraordinary writ review was
2 summarily denied or otherwise not decided on the
3 merits.

4 (2) Failure to file a petition for extraordinary writ
5 review within the period specified by rule, to
6 substantively address the specific issues challenged, or to
7 support that challenge by an adequate record shall
8 preclude subsequent review by appeal of the findings and
9 orders made pursuant to this section.

10 (3) The Judicial Council shall adopt rules of court,
11 effective January 1, 1995, to ensure all of the following:

12 (A) A trial court, after issuance of an order directing
13 a hearing pursuant to this section be held, shall advise all
14 parties of the requirement of filing a petition for
15 extraordinary writ review as set forth in this subdivision
16 in order to preserve any right to appeal in these issues.
17 This notice shall be made orally to a party if they are
18 present at the time of the making of the order or by
19 first-class mail by the clerk of the court to the last known
20 address of a party not present at the time of the making
21 of the order.

22 (B) The prompt transmittal of the records from the
23 trial court to the appellate court.

24 (C) That adequate time requirements for counsel and
25 court personnel exist to implement the objective of this
26 subdivision.

27 (D) That the parent or guardian, or their trial counsel
28 or other counsel, is charged with the responsibility of
29 filing a petition for extraordinary writ relief pursuant to
30 this subdivision.

31 (4) The intent of this subdivision is to do both of the
32 following:

33 (A) Make every reasonable attempt to achieve a
34 substantive and meritorious review by the appellate
35 court within the time specified in Sections 366.21 and
36 366.22 for holding a hearing pursuant to this section.

37 (B) Encourage the appellate court to determine all
38 writ petitions filed pursuant to this subdivision on their
39 merits.



1 (5) This subdivision shall only apply to cases in which
2 an order to set a hearing pursuant to this section is issued
3 on or after January 1, 1995.

4 (m) This section shall be operative January 1, 1999.

5 *SEC. 41. Section 366.3 of the Welfare and Institutions*
6 *Code is amended to read:*

7 366.3. (a) If a juvenile court orders a permanent plan
8 of adoption or legal guardianship pursuant to Section 360;
9 ~~366.25~~, or 366.26, the court shall retain jurisdiction over
10 the minor until the minor is adopted or the legal
11 guardianship is established. The status of the minor shall
12 be reviewed every six months to ensure that the adoption
13 or guardianship is completed as expeditiously as possible.
14 When the adoption of the minor has been granted, the
15 court shall terminate its jurisdiction over the minor. The
16 court may continue jurisdiction over the minor as a
17 dependent minor of the juvenile court following the
18 establishment of a legal guardianship or may terminate its
19 dependency jurisdiction and retain jurisdiction over the
20 minor as a ward of the guardianship established pursuant
21 to Section 360, ~~366.25~~, or 366.26 and as authorized by
22 Section 366.4. Following a termination of parental rights
23 the parent or parents shall not be a party to, or receive
24 notice of, any subsequent proceedings regarding the
25 minor.

26 (b) If the court has dismissed dependency jurisdiction
27 following the establishment of a legal guardianship, or no
28 dependency jurisdiction attached because of the granting
29 of a legal guardianship pursuant to Section 360, and the
30 legal guardianship is subsequently revoked or otherwise
31 terminated, the county department of social services or
32 welfare department shall notify the juvenile court of this
33 fact. The court may vacate its previous order dismissing
34 dependency jurisdiction over the minor.

35 Notwithstanding Section 1601 of the Probate Code, the
36 proceedings to terminate a guardianship which has been
37 granted pursuant to Section 360, ~~366.25~~, or 366.26 shall be
38 held in the juvenile court, unless the termination is due
39 to the emancipation or adoption of the minor. If the
40 petition to terminate guardianship is granted, the



1 juvenile court may resume dependency jurisdiction over
2 the minor, and may order the county department of social
3 services or welfare department to develop a new
4 permanent plan, which shall be presented to the court
5 within 60 days of the termination. If no dependency
6 jurisdiction has attached, the ~~probation officer~~ *social*
7 *worker* shall make any investigation he or she deems
8 necessary to determine whether the minor may be within
9 the jurisdiction of the juvenile court, as provided in
10 Section 328.

11 Unless the parental rights of the child's parent or
12 parents have been terminated, they shall be notified that
13 the guardianship has been revoked or terminated and
14 shall be entitled to participate in the new permanency
15 planning hearing. The court shall try to place the minor
16 in another permanent placement. At the hearing, the
17 parents may be considered as custodians but the minor
18 shall not be returned to the parent or parents unless they
19 prove, by a preponderance of the evidence, that
20 reunification is the best alternative for the minor. The
21 court may, if it is in the interests of the minor, order that
22 reunification services again be provided to the parent or
23 parents.

24 (c) If, following the establishment of a legal
25 guardianship, the county welfare department or
26 probation department becomes aware of changed
27 circumstances that indicate adoption may be an
28 appropriate plan for the child, the department shall so
29 notify the court. The court may vacate its previous order
30 dismissing dependency jurisdiction over the minor and
31 order that a hearing be held pursuant to Section 366.26 to
32 determine whether adoption or continued guardianship
33 is the most appropriate plan for the minor. The hearing
34 shall be held no later than 120 days from the date of the
35 order. Whenever the court orders that a hearing shall be
36 held pursuant to Section 366.26, the court shall direct the
37 agency supervising the child and the licensed county
38 adoption agency, or the State Department of Social
39 Services when it is acting as an adoption agency in
40 counties that are not served by a county adoption agency,



1 to prepare an assessment under subdivision (b) of Section
2 366.22.

3 (d) If the minor is in a placement other than the home
4 of a legal guardian and jurisdiction has not been
5 dismissed, the status of the minor shall be reviewed every
6 six months. This review may be conducted by the court
7 or an appropriate local agency. The court shall conduct
8 the review under the following circumstances:

9 (1) Upon the request of the minor's parents or
10 guardians.

11 (2) Upon the request of the minor.

12 (3) It has been 12 months since a hearing held
13 pursuant to Section 366.26 or an order that the minor
14 remain in long-term foster care pursuant to paragraph
15 (2) of subdivision (g) of Section 366.21, subdivision (a) of
16 Section 366.26, or subdivision (f).

17 (4) It has been 12 months since a review was
18 conducted by the court.

19 (e) At the review held every six months pursuant to
20 subdivision (d), the reviewing body shall inquire about
21 the progress being made to provide a permanent home
22 for the minor and shall determine all of the following:

23 (1) The appropriateness of the placement.

24 (2) The continuing appropriateness and extent of
25 compliance with the permanent plan for the child.

26 (3) The extent of compliance with the child welfare
27 services case plan.

28 (4) The adequacy of services provided to the child.
29 The review shall also include a determination of the
30 services needed to assist a child who is 16 years of age or
31 older make the transition from foster care to independent
32 living.

33 Each licensed foster family agency shall submit reports
34 for each minor in its care, custody, and control to the
35 court concerning the continuing appropriateness and
36 extent of compliance with the minor's permanent plan,
37 the extent of compliance with the case plan, and the type
38 and adequacy of services provided to the minor.

39 Unless their parental rights have been permanently
40 terminated, the parent or parents of the minor are



1 entitled to receive notice of, and participate in, those
 2 hearings. It shall be presumed that continued care is in
 3 the interests of the minor, unless the parent or parents
 4 prove, by a preponderance of the evidence, that further
 5 efforts at reunification are the best alternative for the
 6 minor. In those cases, the court may order that further
 7 reunification services be provided to the parent or
 8 parents for a period not to exceed six months.

9 (f) At the review held pursuant to paragraph (3) of
 10 subdivision (d), in addition to the review held pursuant
 11 to subdivision (e), the court shall consider all
 12 permanency planning options for the child including
 13 whether the child should be returned to the home of the
 14 parent, placed for adoption, or appointed a legal
 15 guardian, or whether the child should remain in foster
 16 care. The court shall order that a hearing be held
 17 pursuant to Section 366.26 unless it determines by clear
 18 and convincing evidence that the child is not a proper
 19 subject for adoption or that there is no one willing to
 20 accept legal guardianship. Only upon that determination
 21 may the court order that the minor child remain in
 22 long-term foster care, without holding a hearing pursuant
 23 to Section 366.26.

24 (g) If, as authorized by subdivision (f), the court
 25 orders a hearing pursuant to Section 366.26, the court
 26 shall direct the agency supervising the child and the
 27 licensed county adoption agency, or the department
 28 when it is acting as an adoption agency in counties that
 29 are not served by a county adoption agency, to prepare
 30 an assessment as provided for in subdivision (i) of Section
 31 366.21 or subdivision (b) of Section 366.22. A hearing held
 32 pursuant to Section 366.26 shall be held no later than 120
 33 days from the date of the 12-month review at which it is
 34 ordered, and at that hearing the court shall determine
 35 whether adoption, guardianship, or long-term foster care
 36 is the most appropriate plan for the minor.

37 *SEC. 42. Section 367 of the Welfare and Institutions*
 38 *Code is amended to read:*

39 367. (a) Whenever a person has been adjudged a
 40 dependent child of the juvenile court and has been



1 committed or otherwise disposed of as provided in this
2 chapter for the care of dependent children of the juvenile
3 court, the court may order that said dependent child be
4 detained in a suitable place designated as the court seems
5 fit until the execution of the order of commitment or of
6 other disposition.

7 (b) In any case in which a minor is detained for more
8 than 15 days pending the execution of the order of
9 commitment or of any other disposition, the court shall
10 periodically review the case to determine whether the
11 delay is reasonable. ~~Such~~ These periodic reviews shall be
12 held at least every 15 days, commencing from the time
13 the minor was initially detained pending the execution of
14 the order of commitment or of any other disposition, and
15 during the course of each review the court shall inquire
16 regarding the action taken by the ~~probation department~~
17 *social worker* to carry out its order, the reasons for the
18 delay, and the effect of the delay upon the minor.

19 *SEC. 43. Section 368 of the Welfare and Institutions*
20 *Code is amended to read:*

21 368. In a case where the residence of a dependent
22 child of the juvenile court is out of the state and in another
23 state or foreign country, or in a case where ~~such that~~
24 minor is a resident of this state but his *or her* parents,
25 relatives, guardian, or person charged with his *or her*
26 custody is in another state, the court may order ~~such the~~
27 minor sent to his *or her* parents, relatives, or guardian, or
28 to the person charged with his *or her* custody, or, if the
29 minor is a resident of a foreign country, to an official of a
30 juvenile court of ~~such that~~ foreign country or an agency
31 of ~~such a~~ country authorized to accept the minor, and in
32 ~~such that~~ case may order transportation and
33 accommodation furnished, with or without an attendant,
34 as the court deems necessary. If the court deems an
35 attendant necessary, the court may order the ~~probation~~
36 ~~officer~~ *social worker* or other suitable person to serve as
37 ~~such the~~ attendant. The ~~probation officer~~ *social worker*
38 shall authorize the necessary expenses of ~~such the~~ minor
39 and of the attendant and claims therefor shall be audited,

1 allowed and paid in the same manner as other county
2 claims.

3 *SEC. 44. Section 369 of the Welfare and Institutions*
4 *Code is amended to read:*

5 369. (a) Whenever any person is taken into
6 temporary custody under Article 7 (commencing with
7 Section 305) and is in need of medical, surgical, dental, or
8 other remedial care, the ~~probation officer~~ *social worker*
9 may, upon the recommendation of the attending
10 physician and surgeon or, if the person needs dental care
11 and there is an attending dentist, the attending dentist,
12 authorize the performance of the medical, surgical,
13 dental, or other remedial care. The ~~probation officer~~
14 *social worker* shall notify the parent, guardian, or person
15 standing in loco parentis of the person, if any, of the care
16 found to be needed before that care is provided, and if the
17 parent, guardian, or person standing in loco parentis
18 objects, ~~such~~ *that* care shall be given only upon order of
19 the court in the exercise of its discretion.

20 (b) Whenever it appears to the juvenile court that any
21 person concerning whom a petition has been filed with
22 the court is in need of medical, surgical, dental, or other
23 remedial care, and that there is no parent, guardian, or
24 person standing in loco parentis capable of authorizing or
25 willing to authorize the remedial care or treatment for
26 that person, the court, upon the written recommendation
27 of a licensed physician and surgeon or, if the person needs
28 dental care, a licensed dentist, and after due notice to the
29 parent, guardian, or person standing in loco parentis, if
30 any, may make an order authorizing the performance of
31 the necessary medical, surgical, dental, or other remedial
32 care for that person.

33 (c) Whenever a dependent child of the juvenile court
34 is placed by order of the court within the care and custody
35 or under the supervision of ~~the probation officer~~ *a social*
36 *worker* of the county in which the dependent child
37 resides and it appears to the court that there is no parent,
38 guardian, or person standing in loco parentis capable of
39 authorizing or willing to authorize medical, surgical,
40 dental, or other remedial care or treatment for the



1 dependent child, the court may, after due notice to the
2 parent, guardian, or person standing in loco parentis, if
3 any, order that the probation officer may authorize the
4 medical, surgical, dental, or other remedial care for the
5 dependent child, by licensed practitioners, as may from
6 time to time appear necessary.

7 (d) Whenever it appears that a minor otherwise
8 within subdivision (a), (b), or (c) requires immediate
9 emergency medical, surgical, or other remedial care in an
10 emergency situation, that care may be provided by a
11 licensed physician and surgeon or, if the minor needs
12 dental care in an emergency situation, by a licensed
13 dentist, without a court order and upon authorization of
14 a ~~probation officer~~ *social worker*. The ~~probation officer~~
15 *social worker* shall make reasonable efforts to obtain the
16 consent of, or to notify, the parent, guardian, or person
17 standing in loco parentis prior to authorizing emergency
18 medical, surgical, dental, or other remedial care.
19 “Emergency situation,” for the purposes of this
20 subdivision means a minor requires immediate treatment
21 for the alleviation of severe pain or an immediate
22 diagnosis and treatment of an unforeseeable medical,
23 surgical, dental, or other remedial condition or
24 contagious disease which if not immediately diagnosed
25 and treated, would lead to serious disability or death.

26 (e) In any case in which the court orders the
27 performance of any medical, surgical, dental, or other
28 remedial care pursuant to this section, the court may also
29 make an order authorizing the release of information
30 concerning that care to ~~probation officers~~ *social workers*,
31 parole officers, or any other qualified individuals or
32 agencies caring for or acting in the interest and welfare
33 of the minor under order, commitment, or approval of
34 the court.

35 (f) Nothing in this section shall be construed as
36 limiting the right of a parent, guardian, or person
37 standing in loco parentis, who has not been deprived of
38 the custody or control of the minor by order of the court,
39 in providing any medical, surgical, dental, or other



1 remedial treatment recognized or permitted under the
2 laws of this state.

3 (g) The parent of any person described in this section
4 may authorize the performance of medical, surgical,
5 dental, or other remedial care provided for in this section
6 notwithstanding his or her age or marital status. In
7 nonemergency situations the parent authorizing the care
8 shall notify the other parent prior to the administration
9 of such care.

10 *SEC. 45. Section 370 of the Welfare and Institutions*
11 *Code is amended to read:*

12 370. The juvenile court may, in any case before it in
13 which a petition has been filed as provided in Article 7
14 (commencing with Section 305), order that the ~~probation~~
15 ~~officer~~ *social worker* obtain the services of ~~such~~ *those*
16 psychiatrists, psychologists, or other clinical experts as
17 may be required to assist in determining the appropriate
18 treatment of the minor and as may be required in the
19 conduct or implementation of ~~such~~ *that* treatment.
20 Payment for ~~such~~ *those* services shall be a charge against
21 the county.

22 *SEC. 46. Section 380 of the Welfare and Institutions*
23 *Code is amended to read:*

24 380. Any person adjudged to be a dependent child of
25 the juvenile court may be permitted by order of the court
26 to reside in a county other than the county of his *or her*
27 legal residence, and the court shall retain jurisdiction
28 over ~~such~~ *that* person.

29 Whenever a dependent child of the juvenile court is
30 permitted to reside in a county other than the county of
31 his *or her* legal residence, he *or she* may be placed under
32 the supervision of the ~~probation-officer~~ *social worker* of
33 the county of actual residence, with the consent of ~~such~~
34 ~~probation-officer~~ *the social worker*. The dependent child
35 shall comply with the instructions of ~~such~~ ~~probation~~
36 ~~officer~~ *the social worker* and upon failure to do so shall be
37 returned to the county of his *or her* legal residence for
38 further hearing and order of the court.

39 *SEC. 47. Section 386 of the Welfare and Institutions*
40 *Code is amended to read:*



1 386. No order changing, modifying, or setting aside a
2 previous order of the juvenile court shall be made either
3 in chambers, or otherwise, unless prior notice of the
4 application therefor has been given by the judge or the
5 clerk of the court to the ~~probation-officer~~ *social worker*
6 and to the minor's counsel of record, or, if there is no
7 counsel of record, to the minor and his parent or
8 guardian.

9 *SEC. 48. Section 387 of the Welfare and Institutions*
10 *Code is amended to read:*

11 387. An order changing or modifying a previous order
12 by removing a minor from the physical custody of a
13 parent, guardian, relative, or friend and directing
14 placement in a foster home, or commitment to a private
15 or county institution, shall be made only after noticed
16 hearing upon a supplemental petition.

17 (a) The supplemental petition shall be filed by the
18 ~~probation-officer~~ *social worker* in the original matter and
19 shall contain a concise statement of facts sufficient to
20 support the conclusion that the previous disposition has
21 not been effective in the rehabilitation or protection of
22 the minor or, in the case of a placement with a relative,
23 sufficient to show that the placement is not appropriate
24 in view of the criteria in Section 361.3.

25 (b) Upon the filing of the supplemental petition, the
26 clerk of the juvenile court shall immediately set the same
27 for hearing within 30 days, and the ~~probation-officer~~ *social*
28 *worker* shall cause notice thereof to be served upon the
29 persons and in the manner prescribed by Sections 335 and
30 337.

31 (c) An order for the detention of the minor pending
32 adjudication of the petition may be made only after a
33 hearing is conducted pursuant to Article 7 (commencing
34 with Section 305).

35 *SEC. 49. Notwithstanding Section 17610 of the*
36 *Government Code, if the Commission on State Mandates*
37 *determines that this act contains costs mandated by the*
38 *state, reimbursement to local agencies and school*
39 *districts for those costs shall be made pursuant to Part 7*
40 *(commencing with Section 17500) of Division 4 of Title*



1 2 of the Government Code. If the statewide cost of the
2 claim for reimbursement does not exceed one million
3 dollars (\$1,000,000), reimbursement shall be made from
4 the State Mandates Claims Fund.

5 Notwithstanding Section 17580 of the Government
6 Code, unless otherwise specified, the provisions of this act
7 shall become operative on the same date that the act
8 takes effect pursuant to the California Constitution.

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**All matter omitted in this version of the
bill appears in the bill as introduced in the
Assembly, February 27, 1997 (JR 11)**

