

ASSEMBLY BILL

No. 1544

Introduced by Committee on Human Services

March 5, 1997

An act to amend Sections 8614 and 8715 of, and to add Sections 8714.5 and 8714.7 to, the Family Code, and to amend Sections 358.1, 360, 361, 361.3, 361.5, 366.21, and 16501.1 of the Welfare and Institutions Code, relating to minors.

LEGISLATIVE COUNSEL'S DIGEST

AB 1544, as introduced, Committee on Human Services. Minors: adoption.

Existing law authorizes the juvenile court, in considering the disposition of a case of a child who is removed from the physical custody of his or her parents, to give preferential consideration to a request for placement of the child with a relative.

This bill would authorize a relative of a minor to file a petition for adoption when a minor comes within the dependency jurisdiction of the juvenile court and would authorize the relative and the parents of the minor to enter into a postadoption agreement, as specified, with respect to that adoption. The bill would revise the contents of a required social study for the dispositional hearing of a dependent minor. The bill would require the court to advise the parent in dependency cases of the right to voluntarily relinquish the minor for adoption if the parent indicates that the parent is not interested in family maintenance or family reunification services.



The bill would also require a probation officer to report efforts made to achieve legal permanence for a child if efforts to reunify fail in specified reports to the court.

Because the bill would impose new or increased duties on probation officers, it would create a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, 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.

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

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

1 SECTION 1. Section 8614 of the Family Code is
2 amended to read:

3 8614. Upon the request of the adoptive parents or the
4 adopted child, a county clerk may issue a certificate of
5 adoption that states the date and place of adoption, the
6 birthday of the child, the names of the adoptive parents,
7 and the name the child has taken. Unless the child has
8 been adopted by a stepparent *or by a relative, as defined*
9 *in subdivision (c) of Section 8714.7*, the certificate shall
10 not state the name of the birth parents of the child.

11 SEC. 2. Section 8714.5 is added to the Family Code, to
12 read:

13 8714.5. (a) Where a child has come within the
14 jurisdiction of the juvenile court pursuant to Section 300
15 of the Welfare and Institutions Code, a petition seeking
16 adoption of the child may be filed by a relative as defined
17 in subdivision (c) of Section 8714.7, in the county where



1 the child is a dependent or where the prospective
2 adopting relative resides.

3 (b) Upon the filing of a petition for adoption by a
4 relative, the county clerk shall immediately notify the
5 State Department of Social Services in Sacramento in
6 writing of the pendency of the proceeding and of any
7 subsequent action taken.

8 (c) If the adopting relative has entered into a
9 postadoption agreement with the birth parent as set forth
10 in Section 8714.7, the postadoption agreement, signed by
11 the parties to the agreement, shall be attached to and
12 filed with the petition for adoption under subdivision (a).

13 (d) The caption of the adoption petition shall contain
14 the name of the relative petitioner. The petition shall
15 state the child's name, sex, and date of birth.

16 (e) If the child is the subject of a guardianship petition,
17 the adoption petition shall so state and shall include the
18 caption and docket number or have attached a copy of
19 the letters of the guardianship or temporary
20 guardianship. The petitioner shall notify the court of any
21 petition for adoption. The guardianship proceeding shall
22 be consolidated with the adoption proceeding.

23 SEC. 3. Section 8714.7 is added to the Family Code, to
24 read:

25 8714.7. (a) Nothing in the laws of this state shall be
26 construed to prevent an adopting relative, the birth
27 parent, and the child from entering into a written
28 agreement to permit continuing contact between the
29 birth parent, birth relatives, and the child if the
30 agreement is found by the court to be in the best interests
31 of the minor at the time the adoption petition is granted.
32 Any postadoption agreement made pursuant to this
33 section shall be limited to privileges related to visitation,
34 contact, or sharing of information about the child.

35 (b) At the time an adoption decree is entered
36 pursuant to a petition filed under Section 8714.5, the court
37 entering the decree may grant postadoption privileges
38 when an agreement for those privileges has been entered
39 into pursuant to subdivision (a).

1 (c) This section applies and permits a postadoption
2 agreement only to minors free from parental custody and
3 control pursuant to Chapter 2 (commencing with Section
4 7820) of Part 4 of Division 12, or relinquished for adoption
5 pursuant to this chapter, where the adopting parent is a
6 relative of the minor or a relative to the minor's
7 half-sibling and the adoption is pursuant to a petition filed
8 under Section 8714.5. For purposes of this section,
9 "relative" means an adult who is related to the minor by
10 blood or affinity, including all relatives whose status is
11 preceded by the words "step," "great," "great-great," or
12 "grand."

13 (d) A minor who is 12 years of age and older shall be
14 considered a party to the postadoption agreement whose
15 written consent to the terms and conditions of the
16 postadoption agreement and any subsequent
17 modifications of the agreement is a necessary condition
18 to the granting of privileges regarding visitation, contact,
19 or sharing of information about the child, unless the court
20 finds by a preponderance of the evidence that the
21 agreement, as written, is in the best interests of the minor.

22 (e) A postadoption agreement shall contain the
23 following warnings in bold type:

24 (1) Once granted by the court, this adoption is
25 irrevocable, even if the adopting parents do not abide by
26 the postadoption agreement or subsequent modifications
27 to the agreement.

28 (2) The failure of the birth parent or parents or the
29 adopting parent or parents or others to abide by the terms
30 of the agreement or a subsequent modification of the
31 agreement does not constitute a basis to set aside a decree
32 of adoption, rescind a relinquishment or consent to
33 adoption, modify or vacate an order to terminate of
34 parental rights, or any other prior court order.

35 (3) Any disagreement or litigation regarding the
36 terms of the agreement shall not affect the validity of the
37 relinquishment or termination of parental rights, the
38 adoption, or the custody of the adoptee.

1 (4) Any failure to comply with the terms of an
2 agreement is not grounds for setting aside an adoption
3 decree or revocation of a written consent to an adoption.

4 (f) Enforcement of the postadoption agreement shall
5 be under the continuing jurisdiction of the court granting
6 the petition of adoption. However, before a court may
7 enter an order requiring compliance with the agreement,
8 the court shall find that the party seeking the
9 enforcement participated, or attempted to participate, in
10 good faith in mediating the dispute giving rise to the
11 action prior to filing the civil action.

12 (g) The court may not award monetary damages as a
13 result of the filing of the civil action pursuant to
14 subdivision (f) of this section.

15 (h) A postadoption agreement may be modified under
16 the following circumstances:

17 (1) Upon agreement of all parties where a signed copy
18 of the modified postadoption agreement is filed with the
19 court granting the petition of adoption.

20 (2) The court orders the postadoption agreement be
21 modified if the court finds that the modification is
22 necessary to serve the best interest of the adopted child,
23 that the party seeking modification participated, or
24 attempted to participate, in good faith in mediation prior
25 to seeking modification of the agreement, and that
26 exceptional circumstances have arisen since the parties
27 entered into the postadoption agreement that justify such
28 modification.

29 (3) All costs and fees of mediation shall be borne by
30 each party. All costs and fees of litigation shall be borne
31 by the party filing the action to modify or enforce the
32 agreement when no party has been found by the court as
33 failing to comply with an existing postadoption
34 agreement. Otherwise, a party found by the court as
35 failing to comply with an existing agreement shall bear all
36 the costs and fees of litigation.

37 (i) The court may not set aside a decree of adoption,
38 rescind a relinquishment, or modify an order to terminate
39 parental rights or any other prior court because either a
40 birth parent or adoptive parent fails to comply with the

1 postadoption agreement or subsequent modifications to
2 the agreement.

3 (j) Any modification of the postadoption agreement
4 shall be signed by all parties to the agreement as required
5 by this section and filed with the court.

6 (k) A granting of postadoption contact privileges shall
7 not prevent the court from thereafter ordering the
8 termination of the privileges provided in the agreement
9 where the court finds by a preponderance of the
10 evidence that a termination of the privileges is in the best
11 interests of the minor.

12 SEC. 4. Section 8715 of the Family Code is amended
13 to read:

14 8715. The department or licensed adoption agency,
15 whichever is a party to or joins in the petition, shall submit
16 a full report of the facts of the case to the court. *Where*
17 *a petition for adoption by a relative has been filed with a*
18 *postadoption agreement pursuant to Section 8714.7, the*
19 *report shall address whether the postadoption agreement*
20 *is in the best interests of the child who is the subject of the*
21 *petition.* The department may also submit a report in
22 those cases in which a licensed adoption agency is a party
23 or joins in the adoption petition.

24 SEC. 5. Section 358.1 of the Welfare and Institutions
25 Code is amended to read:

26 358.1. Each social study or evaluation made by a
27 probation officer or child advocate appointed by the
28 court, required to be received in evidence pursuant to
29 Section 358 shall include, but not be limited to, a factual
30 discussion of each of the following subjects:

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

37 (b) What plan, if any, for return of the child *to his or*
38 *her parents or, for achieving legal permanence for the*
39 *child with a new family if efforts to reunify fail,* is

1 recommended to the court by the county welfare
2 department or probation officer.

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

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

10 (e) *Whether the parent has been advised of his or her
11 right to voluntarily relinquish the child for adoption and
12 to participate in adoption planning.*

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

17 SEC. 6. Section 360 of the Welfare and Institutions
18 Code is amended to read:

19 360. After receiving and considering the evidence on
20 the proper disposition of the case, the juvenile court may
21 enter judgment as follows:

22 (a) *Notwithstanding any other provision of law, if the
23 court finds that the minor is a person described by Section
24 300 and the parent has advised the court that the parent
25 is not interested in family maintenance or family
26 reunification services, the court shall advise the parent of
27 the right to voluntarily relinquish the minor for adoption.*

28 (b) Notwithstanding any other provision of law, if the
29 court finds that the minor is a person described by Section
30 300 and the parent has advised the court that the parent
31 is not interested in family maintenance or family
32 reunification services, it may, in addition to or in lieu of
33 adjudicating the minor a dependent child of the court,
34 order a legal guardianship, appoint a legal guardian, and
35 issue letters of guardianship, if the court determines that
36 a guardianship is in the best interest of the minor,
37 provided the parent and the minor agree to the
38 guardianship, unless the minor's age or physical,
39 emotional, or mental condition prevents the minor's
40 meaningful response. The court shall advise the parent

1 and the minor that no reunification services will be
2 provided as a result of the establishment of a
3 guardianship. The proceeding for the appointment of a
4 guardian shall be in the juvenile court.

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

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

15 (1) Current search efforts for, and notification of, a
16 noncustodial parent in the manner provided in Section
17 337.

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

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

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

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

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

1 The person responsible for preparing the assessment
2 may be called and examined by any party to the
3 guardianship proceeding.

4 (b)

5 (c) If the court finds that the minor is a person
6 described by Section 300, it may, without adjudicating the
7 minor a dependent child of the court, order that services
8 be provided to keep the family together and place the
9 minor and the minor's parent or guardian under the
10 supervision of the probation officer for a time period
11 consistent with Section 301.

12 (e)

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

24 (d)

25 (e) If the court finds that the minor is a person
26 described by Section 300, it may order and adjudge the
27 minor to be a dependent child of the court.

28 SEC. 7. Section 361 of the Welfare and Institutions
29 Code is amended to read:

30 361. (a) In all cases in which a minor is adjudged a
31 dependent child of the court on the ground that the
32 minor is a person described by Section 300, the court may
33 limit the control to be exercised over the dependent child
34 by any parent or guardian and shall by its order clearly
35 and specifically set forth all those limitations. Any
36 limitation on the right of the parent or guardian to make
37 educational decisions for the child shall be specifically
38 addressed in the court order. The limitations shall not
39 exceed those necessary to protect the child.

1 (b) *Nothing in subdivision (a) shall be construed to*
2 *limit the right of a parent to voluntarily relinquish his or*
3 *her child to the State Department of Social Services or to*
4 *a licensed county adoption agency at any time while the*
5 *child is a dependent of the juvenile court.*

6 (c) No dependent child shall be taken from the
7 physical custody of his or her parents or guardian or
8 guardians with whom the child resides at the time the
9 petition was initiated unless the juvenile court finds clear
10 and convincing evidence of any of the following:

11 (1) There is a substantial danger to the physical health,
12 safety, protection, or physical or emotional well-being of
13 the minor or would be if the minor was returned home,
14 and there are no reasonable means by which the minor's
15 physical health can be protected without removing the
16 minor from the minor's parents' or guardians' physical
17 custody. The fact that a minor has been adjudicated a
18 dependent child of the court pursuant to subdivision (e)
19 of Section 300 shall constitute *prima facie* evidence that
20 the minor cannot be safely left in the custody of the
21 parent or guardian with whom the minor resided at the
22 time of injury. The court shall consider, as a reasonable
23 means to protect the minor, the option of removing an
24 offending parent or guardian from the home. The court
25 shall also consider, as a reasonable means to protect the
26 minor, allowing a nonoffending parent or guardian to
27 retain custody as long as that parent or guardian presents
28 a plan acceptable to the court demonstrating that he or
29 she will be able to protect the child from future harm.

30 (2) The parent or guardian of the minor is unwilling to
31 have physical custody of the minor, and the parent or
32 guardian has been notified that if the minor remains out
33 of their physical custody for the period specified in
34 Section 366.25 or 366.26, the minor may be declared
35 permanently free from their custody and control.

36 (3) The minor is suffering severe emotional damage,
37 as indicated by extreme anxiety, depression, withdrawal,
38 or untoward aggressive behavior toward self or others,
39 and there are no reasonable means by which the minor's
40 emotional health may be protected without removing the

1 minor from the physical custody of his or her parent or
2 guardian.

3 (4) The minor or a sibling of the minor has been
4 sexually abused, or is deemed to be at substantial risk of
5 being sexually abused, by a parent, guardian, or member
6 of his or her household, or other person known to his or
7 her parent, and there are no reasonable means by which
8 the minor can be protected from further sexual abuse or
9 a substantial risk of sexual abuse without removing the
10 minor from his or her parent or guardian, or the minor
11 does not wish to return to his or her parent or guardian.

12 (5) The minor has been left without any provision for
13 his or her support, or a parent who has been incarcerated
14 or institutionalized cannot arrange for the care of the
15 minor, or a relative or other adult custodian with whom
16 the child has been left by the parent is unwilling or unable
17 to provide care or support for the child and the
18 whereabouts of the parent is unknown and reasonable
19 efforts to locate him or her have been unsuccessful.

20 (e)

21 (d) The court shall make a determination as to
22 whether reasonable efforts were made to prevent or to
23 eliminate the need for removal of the minor from his or
24 her home or, if the minor is removed for one of the
25 reasons stated in paragraph (5) of subdivision (b) (c),
26 whether it was reasonable under the circumstances not
27 to make any of those efforts. The court shall state the facts
28 on which the decision to remove the minor is based.

29 (d)

30 (e) The court shall make all of the findings required by
31 subdivision (a) of Section 366 in either of the following
32 circumstances:

33 (1) The minor has been taken from the custody of his
34 or her parent or guardian and has been living in an
35 out-of-home placement pursuant to Section 319.

36 (2) The minor has been living in a voluntary
37 out-of-home placement pursuant to Section 16507.4.

38 SEC. 8. Section 361.3 of the Welfare and Institutions
39 Code is amended to read:

1 361.3. (a) In any case in which a child is removed
2 from the physical custody of his or her parents pursuant
3 to Section 361, preferential consideration shall be given
4 to a request by a relative of the child for placement of the
5 child with the relative. In determining whether
6 placement with a relative is appropriate, the county social
7 worker and court shall consider, but shall not be limited
8 to, consideration of the following factors:

9 (1) The best interests of the child, including special
10 physical, psychological, or emotional needs.

11 (2) The wishes of the parent.

12 (3) The provisions of Part 6 (commencing with
13 Section 7950) of Division 12 of the Family Code regarding
14 relative placement.

15 (4) Placement of siblings and half-siblings in the same
16 home, if such a placement is found to be in the best
17 interest of each of the children.

18 (5) The good moral character of the relative.

19 (6) The ability of the relative to do the following:

20 (A) Provide a secure and stable environment for the
21 child.

22 (B) Exercise proper and effective care and control of
23 the child.

24 (C) Provide a home and the necessities of life for the
25 child.

26 (D) Protect the child from his or her parents.

27 (E) Facilitate court-ordered reunification efforts with
28 the parents.

29 (F) Facilitate visitation with the child's other relatives.

30 (G) *Provide legal permanence for the child if
31 reunification fails.*

32 In this regard, the Legislature declares that a physical
33 disability, such as blindness or deafness, is no bar to the
34 raising of children, and a county social worker's
35 determination as to the ability of a disabled relative to
36 exercise care and control should center upon whether the
37 relative's disability prevents him or her from exercising
38 care and control. ~~The county social worker shall ask the~~
~~39 parents if there are any relatives that should be~~
~~40 eonsidered for placement The court shall order the~~

1 parent to disclose to the county social worker the names,
2 residences, and any other known identifying information
3 of any maternal or paternal relatives of the child. This
4 inquiry shall not be construed, however, to guarantee
5 that the minor will be placed with any person so
6 identified. The county social worker shall further
7 investigate the existence of other relatives for possible
8 placement and document these efforts in the social study
9 prepared pursuant to Section 358.1. *The court shall*
10 *authorize the county social worker, while assessing these*
11 *relatives for the possibility of placement, to disclose to the*
12 *relative, as appropriate, the fact that the child is in*
13 *custody, the alleged reasons for the custody, and the*
14 *projected likely date for the child's return home or*
15 *placement for adoption or legal guardianship.* However,
16 this investigation shall not be construed as good cause for
17 continuance of the dispositional hearing conducted
18 pursuant to Section 358.

19 (b) In any case in which more than one appropriate
20 relative requests preferential consideration pursuant to
21 this section, each relative shall be considered under the
22 factors enumerated in subdivision (a).

23 (c) For purposes of this section:

24 (1) "Preferential consideration" means that the
25 relative seeking placement shall be the first placement to
26 be considered and investigated.

27 (2) "Relative" means an adult who is a grandparent,
28 aunt, uncle, or sibling.

29 (d) Subsequent to the hearing conducted pursuant to
30 Section 358, whenever a new placement of the minor
31 must be made, consideration for placement shall again be
32 given as described in this section to relatives who have not
33 been found to be unsuitable and who will fulfill the
34 minor's reunification or permanent plan requirements.
35 In addition to the factors described in subdivision (a), the
36 county social worker shall consider whether the relative
37 has established and maintained a relationship with the
38 minor.

39 (e) If the court does not place the child with a relative
40 who has been considered for placement pursuant to this

1 section, the court shall state for the record the reasons
2 placement with that relative was denied.

3 SEC. 9. Section 361.5 of the Welfare and Institutions
4 Code, as amended by Section 2.5 of Chapter 1083 of the
5 Statutes of 1996, is amended to read:

6 361.5. (a) Except as provided in subdivision (b) or
7 *when the parent has voluntarily relinquished the minor*
8 *and the relinquishment has been filed with the State*
9 *Department of Social Services or*, upon the establishment
10 of an order of guardianship pursuant to Section 360,
11 whenever a minor is removed from a parent's or
12 guardian's custody, the juvenile court shall order the
13 probation officer to provide child welfare services to the
14 minor and the minor's parents or guardians for the
15 purpose of *concurrently* facilitating reunification of the
16 family *and achieving legal permanence for the child with*
17 *a new family if efforts to reunify fail*, as follows:

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

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

26 However, court-ordered services may be extended up
27 to a maximum time period not to exceed 18 months if it
28 can be shown that the objectives of the service plan can
29 be achieved within the extended time period. The court
30 shall extend the time period only if it finds that there is
31 a substantial probability that the minor will be returned
32 to the physical custody of his or her parent or guardian
33 within the extended time period or that reasonable
34 services have not been provided to the parent or
35 guardian. If the court extends the time period, the court
36 shall specify the factual basis for its conclusion that there
37 is a substantial probability that the minor will be returned
38 to the physical custody of his or her parent or guardian
39 within the extended time period. The court also shall
40 make findings pursuant to subdivision (a) of Section 366

1 *and subdivision (e) of Section 358.1.* When counseling or
2 other treatment services are ordered, the parent or
3 guardian shall be ordered to participate in those services,
4 unless the parent's or guardian's participation is deemed
5 by the court to be inappropriate or potentially
6 detrimental to the minor. Physical custody of the minor
7 by the parents or guardians during the 18-month period
8 shall not serve to interrupt the running of the period. If
9 at the end of the 18-month period, a minor cannot be
10 safely returned to the care and custody of a parent or
11 guardian without court supervision, but the minor clearly
12 desires contact with the parent or guardian, the court
13 shall take the child's desire into account in devising a
14 permanency plan.

15 In cases where the minor was under the age of three
16 years on the date of the initial removal from the physical
17 custody of his or her parent or guardian, the court shall
18 inform the parent or guardian that the failure of the
19 parent or guardian to participate regularly in any
20 court-ordered treatment programs or to cooperate or
21 avail himself or herself of services provided as part of the
22 child welfare services case plan may result in a
23 termination of efforts to reunify the family after six
24 months.

25 Except in cases where, pursuant to subdivision (b), the
26 court does not order reunification services, the court shall
27 inform the parent or parents of Section 366.25 or 366.26
28 and shall specify that the parent's or parents' parental
29 rights may be terminated.

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

34 (1) That the whereabouts of the parent or guardian is
35 unknown. A finding pursuant to this paragraph shall be
36 supported by an affidavit or by proof that a reasonably
37 diligent search has failed to locate the parent or guardian.
38 The posting or publication of notices is not required in
39 that search.

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

6 (3) That the minor or a sibling of the minor had been
7 previously adjudicated a dependent pursuant to any
8 subdivision of Section 300 as a result of physical or sexual
9 abuse, that following that adjudication the minor had
10 been removed from the custody of his or her parent or
11 guardian pursuant to Section 361, that the minor has been
12 returned to the custody of the parent or guardian from
13 whom the minor had been taken originally, and that the
14 minor is being removed pursuant to Section 361, due to
15 additional physical or sexual abuse.

16 (4) That the parent or guardian of the minor has
17 caused the death of another minor through abuse or
18 neglect.

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

22 (6) That the minor has been adjudicated a dependent
23 pursuant to any subdivision of Section 300 as a result of
24 severe sexual abuse or the infliction of severe physical
25 harm to the minor, a sibling, or a half-sibling by a parent
26 or guardian, as defined in this subdivision, and the court
27 makes a factual finding that it would not benefit the
28 minor to pursue reunification services with the offending
29 parent or guardian.

30 A finding of severe sexual abuse, for the purposes of this
31 subdivision, may be based on, but is not limited to, sexual
32 intercourse or stimulation involving genital-genital,
33 oral-genital, anal-genital, or oral-anal contact, whether
34 between the parent or guardian and the minor, or a
35 sibling or half-sibling of the minor, or between the minor
36 or a sibling or half-sibling of the minor, and another
37 person or animal with the actual or implied consent of the
38 parent or guardian, or the penetration or manipulation of
39 the minor's, sibling's, or half-sibling's genital organs or
40 rectum by any animate or inanimate object, for the sexual

1 gratification of the parent or guardian, or for the sexual
2 gratification of another person with the actual or implied
3 consent of the parent or guardian.

4 A finding of the infliction of severe physical harm, for
5 the purposes of this subdivision, may be based on, but is
6 not limited to, deliberate and serious injury inflicted to or
7 on a minor's body, or the body of a sibling or half-sibling
8 of the minor, by an act or omission of the parent or
9 guardian, or of another individual or animal with the
10 consent of the parent or guardian; deliberate and
11 torturous confinement of the minor, sibling, or
12 half-sibling, in a closed space; or any other torturous act
13 or omission which would be reasonably understood to
14 cause serious emotional damage.

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

18 (8) That the minor was conceived by means of the
19 commission of an offense listed in Section 288 or 288.5 of
20 the Penal Code, or by an act committed outside of this
21 state which if committed in this state would constitute
22 such an offense. This paragraph only applies to the parent
23 who committed the offense or act.

24 (9) That the minor was brought within the jurisdiction
25 of the court under subdivision (g) of Section 300, that the
26 parent or guardian of the minor willfully abandoned the
27 minor, and the court finds that the abandonment itself
28 constituted a serious danger to the minor. For purposes
29 of this paragraph, a "serious danger" means that without
30 the intervention of another person or agency, the minor
31 would have sustained severe or permanent disability,
32 injury, illness, or death. For purposes of this paragraph,
33 "willful abandonment" shall not be construed as actions
34 taken in good faith by the parent without the intent of
35 placing the minor in serious danger.

36 (10) That (A) the court ordered a permanent plan of
37 adoption, guardianship, or long-term foster care for any
38 siblings or half-siblings of the minor because the parent
39 or guardian failed to reunify with the sibling or
40 half-sibling after the sibling or half-sibling had been

1 removed from that parent or guardian pursuant to
2 Section 361 and that parent or guardian is the same parent
3 or guardian described in subdivision (a), or (B) the
4 parental rights of a parent or guardian over any sibling or
5 half-sibling of the minor had been permanently severed
6 and that, according to the findings of the court, this
7 parent or guardian has not subsequently made a
8 reasonable effort to treat the problems that led to
9 removal of the sibling or half-sibling of that minor from
10 that parent or guardian.

11 (11) That the parent or guardian has been convicted
12 of a violent felony, as defined in subdivision (c) of Section
13 667.5 of the Penal Code.

14 (12) That the parent or guardian of the minor has a
15 history of extensive, abusive, and chronic use of drugs or
16 alcohol and has resisted prior treatment for this problem
17 during a three-year period immediately prior to the filing
18 of the petition which brought that minor to the court's
19 attention, or has failed or refused to comply with a
20 program of drug or alcohol treatment described in the
21 case plan required by Section 358.1 on at least two prior
22 occasions, even though the programs identified were
23 available and accessible.

24 *(13) That the parent or guardian of the minor has
25 advised the court that he or she is not interested in
26 receiving family maintenance or family reunification
27 services or having the minor returned to or placed in his
28 or her custody.*

29 (c) In deciding whether to order reunification in any
30 case in which this section applies, the court shall hold a
31 dispositional hearing. The probation officer shall prepare
32 a report which discusses whether reunification services
33 shall be provided. When it is alleged, pursuant to
34 paragraph (2) of subdivision (b), that the parent is
35 incapable of utilizing services due to mental disability,
36 the court shall order reunification services unless
37 competent evidence from mental health professionals
38 establishes that, even with the provision of services, the
39 parent is unlikely to be capable of adequately caring for
40 the child within 12 months.

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

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

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

32 (d) If reunification services are not ordered pursuant
33 to paragraph (1) of subdivision (b) and the whereabouts
34 of a parent become known within six months of the
35 out-of-home placement of the minor, the court shall order
36 the probation officer to provide family reunification
37 services in accordance with this subdivision. However,
38 the time limits specified in subdivision (a) and Section
39 366.25 are not tolled by the parent's absence.

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

16 (A) Maintaining contact between parent and minor
17 through collect telephone calls.

18 (B) Transportation services, where appropriate.

19 (C) Visitation services, where appropriate.

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

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

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

36 (3) Notwithstanding any other provision of law, if the
37 incarcerated parent is a woman seeking to participate in
38 the community treatment program operated by the
39 Department of Corrections pursuant to Chapter 4.8
40 (commencing with Section 1174) of Title 7 of Part 2 of, or

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

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

17 (g) Whenever a court orders that a hearing shall be
18 held pursuant to Section 366.25 or 366.26 it shall direct the
19 agency supervising the minor and the licensed county
20 adoption agency, or the State Department of Social
21 Services when it is acting as an adoption agency in
22 counties which are not served by a county adoption
23 agency, to prepare an assessment regarding the
24 likelihood that the minor will be adopted if parental
25 rights are terminated. The assessment 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 developmental, scholastic, mental, and emotional status
33 and an analysis of whether any of the minor's
34 characteristics would make it difficult to find a person
35 willing to adopt the minor.

36 (4) A preliminary assessment of the eligibility and
37 commitment of any identified prospective adoptive
38 parent or guardian, particularly the caretaker, to include
39 a social history including screening for criminal records
40 and prior referrals for child abuse or neglect, the

1 capability to meet the minor's needs, and the
2 understanding of the legal and financial rights and
3 responsibilities of adoption and guardianship.

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

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

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

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

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

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

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

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

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

39 (j) This section shall remain in effect only until
40 January 1, 1999, and as of that date is repealed, unless a

1 later enacted statute, which is enacted on or before
2 January 1, 1999, deletes or extends that date.

3 SEC. 10. Section 361.5 of the Welfare and Institutions
4 Code, as added by Section 2.7 of Chapter 1083 of the
5 Statutes of 1996, is amended to read:

6 361.5. (a) Except as provided in subdivision (b) or
7 *when the parent has voluntarily relinquished the minor*
8 *and the relinquishment has been filed with the State*
9 *Department of Social Services, or upon the establishment*
10 *of an order of guardianship pursuant to Section 360,*
11 *whenever a minor is removed from a parent's or*
12 *guardian's custody, the juvenile court shall order the*
13 *probation officer to provide child welfare services to the*
14 *minor and the minor's parents or guardians for the*
15 *purpose of *concurrently* facilitating reunification of the*
16 *family and achieving legal permanence for the child with*
17 *a new family if efforts to reunify fail*, as follows:

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

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

26 However, court-ordered services may be extended up
27 to a maximum time period not to exceed 18 months if it
28 can be shown that the objectives of the service plan can
29 be achieved within the extended time period. The court
30 shall extend the time period only if it finds that there is
31 a substantial probability that the minor will be returned
32 to the physical custody of his or her parent or guardian
33 within the extended time period or that reasonable
34 services have not been provided to the parent or
35 guardian. If the court extends the time period, the court
36 shall specify the factual basis for its conclusion that there
37 is a substantial probability that the minor will be returned
38 to the physical custody of his or her parent or guardian
39 within the extended time period. The court also shall
40 make findings pursuant to subdivision (a) of Section 366.

1 When counseling or other treatment services are
2 ordered, the parent or guardian shall be ordered to
3 participate in those services, unless the parent's or
4 guardian's participation is deemed by the court to be
5 inappropriate or potentially detrimental to the minor.
6 Physical custody of the minor by the parents or guardians
7 during the 18-month period shall not serve to interrupt
8 the running of the period. If at the end of the 18-month
9 period, a minor cannot be safely returned to the care and
10 custody of a parent or guardian without court supervision,
11 but the minor clearly desires contact with the parent or
12 guardian, the court shall take the child's desire into
13 account in devising a permanency plan.

14 In cases where the minor was under the age of three
15 years on the date of the initial removal from the physical
16 custody of his or her parent or guardian, the court shall
17 inform the parent or guardian that the failure of the
18 parent or guardian to participate regularly in any
19 court-ordered treatment programs or to cooperate or
20 avail himself or herself of services provided as part of the
21 child welfare services case plan may result in a
22 termination of efforts to reunify the family after six
23 months.

24 Except in cases where, pursuant to subdivision (b), the
25 court does not order reunification services, the court shall
26 inform the parent or parents of Section 366.25 or 366.26
27 and shall specify that the parent's or parents' parental
28 rights may be terminated.

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

33 (1) That the whereabouts of the parent or guardian is
34 unknown. A finding pursuant to this paragraph shall be
35 supported by an affidavit or by proof that a reasonably
36 diligent search has failed to locate the parent or guardian.
37 The posting or publication of notices is not required in
38 that search.

39 (2) That the parent or guardian is suffering from a
40 mental disability that is described in Chapter 2

1 (commencing with Section 7820) of Part 4 of Division 12
2 of the Family Code and that renders him or her incapable
3 of utilizing those services.

4 (3) That the minor or a sibling of the minor has been
5 previously adjudicated a dependent pursuant to any
6 subdivision of Section 300 as a result of physical or sexual
7 abuse, that following that adjudication the minor had
8 been removed from the custody of his or her parent or
9 guardian pursuant to Section 361, that the minor has been
10 returned to the custody of the parent or guardian from
11 whom the minor had been taken originally, and that the
12 minor is being removed pursuant to Section 361, due to
13 additional physical or sexual abuse.

14 (4) That the parent or guardian of the minor has
15 caused the death of another minor through abuse or
16 neglect.

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

20 (6) That the minor has been adjudicated a dependent
21 pursuant to any subdivision of Section 300 as a result of
22 severe sexual abuse or the infliction of severe physical
23 harm to the minor, a sibling, or a half-sibling by a parent
24 or guardian, as defined in this subdivision, and the court
25 makes a factual finding that it would not benefit the
26 minor to pursue reunification services with the offending
27 parent or guardian.

28 A finding of severe sexual abuse, for the purposes of this
29 subdivision, may be based on, but is not limited to, sexual
30 intercourse, or stimulation involving genital-genital,
31 oral-genital, anal-genital, or oral-anal contact, whether
32 between the parent or guardian and the minor or a sibling
33 or half-sibling of the minor, or between the minor or a
34 sibling or half-sibling of the minor and another person or
35 animal with the actual or implied consent of the parent
36 or guardian; or the penetration or manipulation of the
37 minor's, sibling's, or half-sibling's genital organs or
38 rectum by any animate or inanimate object for the sexual
39 gratification of the parent or guardian, or for the sexual

1 gratification of another person with the actual or implied
2 consent of the parent or guardian.

3 A finding of the infliction of severe physical harm, for
4 the purposes of this subdivision, may be based on, but is
5 not limited to, deliberate and serious injury inflicted to or
6 on a minor's body or the body of a sibling or half-sibling
7 of the minor by an act or omission of the parent or
8 guardian, or of another individual or animal with the
9 consent of the parent or guardian; deliberate and
10 torturous confinement of the minor, sibling, or
11 half-sibling in a closed space; or any other torturous act or
12 omission which would be reasonably understood to cause
13 serious emotional damage.

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

17 (8) That the minor was conceived by means of the
18 commission of an offense listed in Section 288 or 288.5 of
19 the Penal Code, or by an act committed outside of this
20 state which if committed in this state would constitute
21 such an offense. This paragraph only applies to the parent
22 who committed the offense or act.

23 (9) That the minor has been found to be a child
24 described in subdivision (g) of Section 300, that the
25 parent or guardian of the minor willfully abandoned the
26 minor, and the court finds that the abandonment itself
27 constituted a serious danger to the child. For the purposes
28 of this paragraph, "serious danger" means that without
29 the intervention of another person or agency, the minor
30 would have sustained severe or permanent disability,
31 injury, illness, or death. For purposes of this paragraph,
32 "willful abandonment" shall not be construed as actions
33 taken in good faith by the parent without the intent of
34 placing the minor in serious danger.

35 (10) That (A) the court ordered a permanent plan of
36 adoption, guardianship, or long-term foster care for any
37 siblings or half-siblings of the minor because the parent
38 or guardian failed to reunify with the sibling or
39 half-sibling after the sibling or half-sibling had been
40 removed from that parent or guardian pursuant to

1 Section 361 and that parent or guardian is the same parent
2 or guardian described in subdivision (a), or (B) the
3 parental rights of a parent or guardian over any sibling or
4 half-sibling of the minor had been permanently severed
5 and that, according to the findings of the court, this
6 parent or guardian has not subsequently made a
7 reasonable effort to treat the problems that led to
8 removal of the sibling or half-sibling of that minor from
9 that parent or guardian.

10 (11) That the parent or guardian has been convicted
11 of a violent felony, as defined in subdivision (c) of Section
12 667.5 of the Penal Code.

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

23 *(13) That the parent or guardian of the minor has
24 advised the court that he or she is not interested in
25 receiving family maintenance or family reunification
26 services or having the minor returned to or placed in his
27 or her custody.*

28 (c) In deciding whether to order reunification in any
29 case in which this section applies, the court shall hold a
30 dispositional hearing. The probation officer shall prepare
31 a report which discusses whether reunification services
32 shall be provided. When it is alleged, pursuant to
33 paragraph (2) of subdivision (b), that the parent is
34 incapable of utilizing services due to mental disability,
35 the court shall order reunification services unless
36 competent evidence from mental health professionals
37 establishes that, even with the provision of services, the
38 parent is unlikely to be capable of adequately caring for
39 the minor within 12 months.

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

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

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

32 (d) If reunification services are not ordered pursuant
33 to paragraph (1) of subdivision (b) and the whereabouts
34 of a parent become known within six months of the
35 out-of-home placement of the minor, the court shall order
36 the probation officer to provide family reunification
37 services in accordance with this subdivision. However,
38 the time limits specified in subdivision (a) and Section
39 366.25 are not tolled by the parent's absence.

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

16 (A) Maintaining contact between the parent and
17 minor through collect telephone calls.

18 (B) Transportation services, where appropriate.

19 (C) Visitation services, where appropriate.

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

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

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

36 (3) Notwithstanding any other provision of law, if the
37 incarcerated parent is a woman seeking to participate in
38 the community treatment program operated by the
39 Department of Corrections pursuant to Chapter 4.8
40 (commencing with Section 1174) of Title 7 of Part 2 of,

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

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

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

24 (1) Current search efforts for an absent parent or
25 parents.

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

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

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

39 (5) The relationship of the minor to any identified
40 prospective adoptive parent or guardian, the duration

1 and character of the relationship, the motivation for
2 seeking adoption or guardianship, and a statement from
3 the minor concerning placement and the adoption or
4 guardianship, unless the minor's age or physical,
5 emotional, or other condition precludes his or her
6 meaningful response, and if so, a description of the
7 condition.

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

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

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

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

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

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

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

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

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

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

37 SEC. 11. Section 366.21 of the Welfare and Institutions
38 Code, as amended by Section 6.9 of Chapter 1084 of the
39 Statutes of 1996, is amended to read:

1 366.21. (a) Every hearing conducted by the juvenile
2 court reviewing calendar. The court shall advise all
3 persons present at the hearing of the date of the future
4 hearing and of their right to be present and represented
5 by counsel.

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

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

30 (c) At least 10 calendar days prior to the hearing the
31 probation officer shall file a supplemental report with the
32 court regarding the services provided or offered to the
33 parent or guardian to enable them to assume custody *and*
the efforts made to achieve legal permanence for the
35 child with a new family if efforts to reunify fail, the
36 progress made, and, where relevant, the prognosis for
37 return of the minor to the physical custody of his or her
38 parent or guardian, and make his or her recommendation
39 for disposition. If the recommendation is not to return the
40 minor to a parent or guardian, the report shall specify

1 why the return of the minor would be detrimental to the
2 minor. The probation officer shall provide the parent or
3 guardian with a copy of the report, including his or her
4 recommendation for disposition, at least 10 calendar days
5 prior to the hearing. In the case of a minor removed from
6 the physical custody of his or her parent or guardian, the
7 probation officer shall provide a summary of his or her
8 recommendation for disposition to the counsel for the
9 minor, any court-appointed child advocate, foster
10 parents, community care facility, or foster family agency
11 having the physical custody of the minor at least 10
12 calendar days before the hearing.

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

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

1 recommendations of any child advocate appointed
2 pursuant to Section 356.5; and shall consider the efforts or
3 progress, or both, demonstrated by the parent or
4 guardian and the extent to which he or she cooperated
5 and availed himself or herself of services provided.
6 Whether or not the minor is returned to a parent or
7 guardian, the court shall specify the factual basis for its
8 conclusion that the return would be detrimental or would
9 not be detrimental. The court also shall make appropriate
10 findings pursuant to subdivision (a) of Section 366; and
11 where relevant, shall order any additional services
12 reasonably believed to facilitate the return of the minor
13 to the custody of his or her parent or guardian. The court
14 shall also inform the parent or guardian that if the minor
15 cannot be returned home by the next review hearing, a
16 proceeding pursuant to Section 366.26 may be instituted.
17 This section does not apply in a case where, pursuant to
18 Section 361.5, the court has ordered that reunification
19 services shall not be provided.

20 If the minor was under the age of three years on the
21 date of the initial removal and the court finds by clear and
22 convincing evidence that the parent failed to participate
23 regularly in any court-ordered treatment plan, the court
24 may schedule a hearing pursuant to Section 366.26 within
25 120 days. If, however, the court finds there is a substantial
26 probability that the minor, who was under the age of
27 three years on the date of initial removal, may be
28 returned to his or her parent or guardian within six
29 months or that reasonable services have not been
30 provided, the court shall continue the case.

31 If the minor was removed initially under subdivision
32 (g) of Section 300 and the court finds by clear and
33 convincing evidence that the whereabouts of the parent
34 are still unknown, or the parent has failed to contact and
35 visit the minor, the court may schedule a hearing
36 pursuant to Section 366.26 within 120 days. If the court
37 finds by clear and convincing evidence that the parent
38 has been convicted of a felony indicating parental
39 unfitness, the court may schedule a hearing pursuant to
40 Section 366.26 within 120 days.

1 If the minor had been placed under court supervision
2 with a previously noncustodial parent pursuant to Section
3 361.2, the court shall determine whether supervision is
4 still necessary. The court may terminate supervision and
5 transfer permanent custody to that parent, as provided
6 for by paragraph (1) of subdivision (a) of Section 361.2.

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

20 (f) At the review hearing held 12 months after the
21 initial dispositional hearing, the court shall order the
22 return of the minor to the physical custody of his or her
23 parent or guardian unless the court finds, by a
24 preponderance of the evidence, that the return of the
25 minor to his or her parent or guardian would create a
26 substantial risk of detriment to the safety, protection, or
27 physical or emotional well-being of the minor. The
28 probation officer shall have the burden of establishing
29 that detriment. The court shall also determine whether
30 reasonable services have been provided or offered to the
31 parent or guardian which were designed to aid the parent
32 or guardian to overcome the problems that led to the
33 initial removal and continued custody of the minor. The
34 failure of the parent or guardian to participate regularly
35 in court-ordered treatment programs shall be *prima facie*
36 evidence that return would be detrimental. In making its
37 determination, the court shall review and consider the
38 probation officer's report and recommendations and the
39 report and recommendations of any child advocate
40 appointed pursuant to Section 356.5; shall consider the

1 efforts or progress, or both, demonstrated by the parent
2 or guardian and the extent to which he or she availed
3 himself or herself of services provided; and shall make
4 appropriate findings pursuant to subdivision (a) of
5 Section 366. Whether or not the minor is returned to his
6 or her parent or guardian, the court shall specify the
7 factual basis for its decision. If the minor is not returned
8 to a parent or guardian, the court shall specify the factual
9 basis for its conclusion that the return would be
10 detrimental. The court also shall make a finding pursuant
11 to subdivision (a) of Section 366.

12 (g) If the time period in which the court-ordered
13 services were provided has met or exceeded the time
14 period set forth in paragraph (1) or (2) of subdivision (a)
15 of Section 361.5, as appropriate, and a minor is not
16 returned to the custody of a parent or guardian at the
17 hearing held pursuant to subdivision (f), the court shall
18 do one of the following:

19 (1) Continue the case for up to six months for another
20 review hearing, provided that the hearing shall occur
21 within 18 months of the date the minor was originally
22 taken from the physical custody of his or her parent or
23 guardian. The court shall continue the case only if it finds
24 that there is a substantial probability that the minor will
25 be returned to the physical custody of his or her parent
26 or guardian within six months or that reasonable services
27 have not been provided to the parent or guardian. The
28 court shall inform the parent or guardian that if the minor
29 cannot be returned home by the next review hearing, a
30 permanent plan shall be developed at that hearing. The
31 court shall not order that a hearing pursuant to Section
32 366.26 be held unless there is clear and convincing
33 evidence that reasonable services have been provided or
34 offered to the parent or guardian.

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

1 (3) Order that a hearing be held within 120 days,
2 pursuant to Section 366.26, if there is clear and convincing
3 evidence that reasonable services have been provided or
4 offered to the parents. Evidence that the minor has been
5 placed with a foster family that is eligible to adopt a
6 minor, or has been placed in a preadoptive home, in and
7 of itself, shall not be deemed a failure to provide or offer
8 reasonable services.

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

15 (i) Whenever a court orders that a hearing pursuant to
16 Section 366.26 shall be held, it shall direct the agency
17 supervising the child and the licensed county adoption
18 agency, or the State Department of Social Services when
19 it is acting as an adoption agency in counties which are not
20 served by a county adoption agency, to prepare an
21 assessment regarding the likelihood that the minor will be
22 adopted if parental rights are terminated. The assessment
23 shall include:

24 (1) Current search efforts for an absent parent or
25 parents.

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

29 (3) An evaluation of the minor's medical,
30 developmental, scholastic, mental, and emotional status
31 and an analysis of whether any of the minor's
32 characteristics would make it difficult to find a person
33 willing to adopt the minor.

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

1 understanding of the legal and financial rights and
2 responsibilities of adoption and guardianship.

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

12 (j) This section shall apply to minors made dependents
13 of the court pursuant to subdivision (c) of Section 360 on
14 or after January 1, 1989.

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

19 SEC. 12. Section 366.21 of the Welfare and Institutions
20 Code, as amended by Section 7.9 of Chapter 1084 of the
21 Statutes of 1996, is amended to read:

22 366.21. (a) Every hearing conducted by the juvenile
23 court reviewing the status of a dependent child shall be
24 placed on the appearance calendar. The court shall advise
25 all persons present at the hearing of the date of the future
26 hearing and of their right to be present and represented
27 by counsel.

28 (b) Except as provided in Section 366.23 and
29 subdivision (a) of Section 366.3, notice of the hearing shall
30 be mailed by the probation officer to the same persons as
31 in the original proceeding, to the minor's parent or
32 guardian, to the foster parents, community care facility,
33 or foster family agency having physical custody of the
34 minor in the case of a minor removed from the physical
35 custody of his or her parent or guardian, and to the
36 counsel of record if the counsel of record was not present
37 at the time that the hearing was set by the court, by
38 first-class mail addressed to the last known address of the
39 person to be notified, or shall be personally served on
40 those persons, not earlier than 30 days nor later than 15

1 days preceding the date to which the hearing was
2 continued. Service of a copy of the notice personally or by
3 certified mail return receipt requested, or any other form
4 of actual notice is equivalent to service by first-class mail.

5 The notice shall contain a statement regarding the
6 nature of the hearing to be held and any change in the
7 custody or status of the minor being recommended by the
8 supervising agency. The notice to the foster parent shall
9 indicate that the foster parent may attend all hearings or
10 may submit any information he or she deems relevant to
11 the court in writing.

12 (c) At least 10 calendar days prior to the hearing the
13 probation officer shall file a supplemental report with the
14 court regarding the services provided or offered to the
15 parent or guardian to enable them to assume custody *and*
16 *the efforts made to achieve legal permanence for the*
17 *child with a new family if efforts to reunify fail*, 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. If the recommendation is not to return the
22 minor to a parent or guardian, the report shall specify
23 why the return of the minor would be detrimental to the
24 minor. The probation officer shall provide the parent or
25 guardian with a copy of the report, including his or her
26 recommendation for disposition, at least 10 calendar days
27 prior to the hearing. In the case of a minor removed from
28 the physical custody of his or her parent or guardian, the
29 probation officer shall provide a summary of his or her
30 recommendation for disposition to the counsel for the
31 minor, any court-appointed child advocate, foster
32 parents, community care facility, or foster family agency
33 having the physical custody of the minor at least 10
34 calendar days before the hearing.

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

1 containing its recommendation for disposition. Prior to
2 such a hearing involving a minor in the physical custody
3 of a foster parent, the foster parent may file with the court
4 a report containing its recommendation for disposition.
5 The court shall consider the report and recommendation
6 filed pursuant to this subdivision prior to determining any
7 disposition.

8 (e) At the review hearing held six months after the
9 initial dispositional hearing, the court shall order the
10 return of the minor to the physical custody of his or her
11 parent or guardian unless the court finds, by a
12 preponderance of the evidence, that the return of the
13 minor to his or her parent or guardian would create a
14 substantial risk of detriment to the safety, protection, or
15 physical or emotional well-being of the minor. The
16 probation officer shall have the burden of establishing
17 that detriment. The failure of the parent or guardian to
18 participate regularly in court-ordered treatment
19 programs shall be *prima facie* evidence that return would
20 be detrimental. In making its determination, the court
21 shall review and consider the probation officer's report
22 and recommendations and the report and
23 recommendations of any child advocate appointed
24 pursuant to Section 356.5; and shall consider the efforts or
25 progress, or both, demonstrated by the parent or
26 guardian and the extent to which he or she availed
27 himself or herself of services provided. Whether or not
28 the minor is returned to a parent or guardian, the court
29 shall specify the factual basis for its conclusion that the
30 return would be detrimental or would not be
31 detrimental. The court also shall make appropriate
32 findings pursuant to subdivision (a) of Section 366; and
33 where relevant, shall order any additional services
34 reasonably believed to facilitate the return of the minor
35 to the custody of his or her parent or guardian. The court
36 shall also inform the parent or guardian that if the minor
37 cannot be returned home by the next review hearing, a
38 proceeding pursuant to Section 366.26 may be instituted.
39 This section does not apply in a case where, pursuant to

1 Section 361.5, the court has ordered that reunification
2 services shall not be provided.

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

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

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

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

36 If the minor is not returned to his or her parent or
37 guardian, the court shall determine whether reasonable
38 services have been provided or offered to the parent or
39 guardian which were designed to aid the parent or
40 guardian in overcoming the problems which led to the

1 initial removal and the continued custody of the minor.
2 The court shall order that those services be initiated,
3 continued, or terminated.

4 (f) At the review hearing held 12 months after the
5 initial dispositional hearing, the court shall order the
6 return of the minor to the physical custody of his or her
7 parent or guardian unless the court finds, by a
8 preponderance of the evidence, that the return of the
9 minor to his or her parent or guardian would create a
10 substantial risk of detriment to the safety, protection, or
11 physical or emotional well-being of the minor. The
12 probation officer shall have the burden of establishing
13 that detriment. The failure of the parent or guardian to
14 participate regularly in court-ordered treatment
15 programs shall be *prima facie* evidence that return would
16 be detrimental. In making its determination, the court
17 shall review and consider the probation officer's report
18 and recommendations and the report and
19 recommendations of any child advocate appointed
20 pursuant to Section 356.5; shall consider the efforts or
21 progress, or both, demonstrated by the parent or
22 guardian and the extent to which he or she availed
23 himself or herself of services provided; and shall make
24 appropriate findings pursuant to subdivision (a) of
25 Section 366. Whether or not the minor is returned to his
26 or her parent or guardian, the court shall specify the
27 factual basis for its decision. If the minor is not returned
28 to a parent or guardian, the court shall specify the factual
29 basis for its conclusion that the return would be
30 detrimental. The court also shall make a finding pursuant
31 to subdivision (a) 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. Evidence that the minor has been
24 placed with a foster family that is eligible to adopt a
25 minor, or has been placed in a preadoptive home, in and
26 of itself, shall not be deemed a failure to provide or offer
27 reasonable services.

28 (h) In any case in which the court orders that a hearing
29 pursuant to Section 366.26 shall be held, it shall also order
30 the termination of reunification services to the parent.
31 The court shall continue to permit the parent to visit the
32 minor pending the hearing unless it finds that visitation
33 would be detrimental to the minor.

34 (i) Whenever a court orders that a hearing pursuant to
35 Section 366.26 shall be held, it shall direct the agency
36 supervising the minor and the licensed county adoption
37 agency, or the State Department of Social Services when
38 it is acting as an adoption agency in counties which are not
39 served by a county adoption agency, to prepare an
40 assessment which shall include:

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

3 (2) A review of the amount of and nature of any
4 contact between the minor and his or her parents since
5 the time of placement.

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

8 (4) A preliminary assessment of the eligibility and
9 commitment of any identified prospective adoptive
10 parent or guardian, particularly the caretaker, to include
11 a social history including screening for criminal records
12 and prior referrals for child abuse or neglect, the
13 capability to meet the minor's needs, and the
14 understanding of the legal and financial rights and
15 responsibilities of adoption and guardianship.

16 (5) The relationship of the minor to any identified
17 prospective adoptive parent or guardian, the duration
18 and character of the relationship, the motivation for
19 seeking adoption or guardianship, and a statement from
20 the minor concerning placement and the adoption or
21 guardianship, unless the minor's age or physical,
22 emotional, or other condition precludes his or her
23 meaningful response, and if so, a description of the
24 condition.

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

27 (j) This section shall apply to minors made dependents
28 of the court pursuant to subdivision (c) of Section 360 on
29 or after January 1, 1989.

30 (k) This section shall become operative January 1,
31 1999.

32 SEC. 13. Section 16501.1 of the Welfare and
33 Institutions Code is amended to read:

34 16501.1. (a) The Legislature finds and declares that
35 the foundation and central unifying tool in child welfare
36 services is the case plan.

37 (b) The Legislature further finds and declares that a
38 case plan ensures that the child receives protection and
39 proper case management, and that services are provided
40 to the parents or other caretakers as appropriate. A case

1 plan shall be based upon the principles of this section and
2 shall document that a preplacement assessment of the
3 service needs of the child and family, and preplacement
4 preventive services, have been provided, and that
5 reasonable efforts to prevent out-of-home placement
6 have been made.

7 (c) When out-of-home placement is used to attain case
8 plan goals, the decision regarding choice of placement
9 shall be based upon selection of the least restrictive or
10 most familylike setting, selection of the environment best
11 suited to meet the child's special needs and best interests,
12 or both. The selection shall consider, in order of priority,
13 placement with relatives, tribal members, and foster
14 family, group care, and residential treatment pursuant to
15 Section 7950 of the Family Code.

16 (d) A written case plan shall be completed within 30
17 days of the initial removal of the child or of the in-person
18 response required under subdivision (f) of Section 16501
19 if the child has not been removed from his or her home,
20 or by the date of the dispositional hearing pursuant to
21 Section 358, whichever occurs first. The case plan shall be
22 updated, as the service needs of the child and family
23 dictate. At a minimum, the case plan shall be updated in
24 conjunction with each status review hearing conducted
25 pursuant to Section 366.21, and the hearing conducted
26 pursuant to Section 366.25 or 366.26, but no less frequently
27 than once every six months.

28 (e) The child welfare services case plan shall be
29 comprehensive enough to meet the juvenile court
30 dependency proceedings requirements pursuant to
31 Article 6 (commencing with Section 300) of Chapter 2 of
32 Part 1 of Division 2.

33 (f) The case plan shall be developed as follows:

34 (1) The case plan shall be based upon an assessment of
35 the circumstances which required child welfare services
36 intervention.

37 (2) The case plan shall identify specific goals, and the
38 appropriateness of the planned services in meeting those
39 goals.

1 (3) The case plan shall identify the original allegations
2 of abuse or neglect, as defined in Article 2.5 (commencing
3 with Section 11164) of Chapter 2 of Title 1 of Part 4 of the
4 Penal Code, or the conditions cited as the basis for
5 declaring the child a dependent of the court pursuant to
6 Section 300, or all of these, and the other precipitating
7 incidents which led to child welfare services intervention.

8 (4) The case plan shall include a description of the
9 schedule of the social worker contacts with the child and
10 the family or other caretakers. The frequency of these
11 contacts shall be in accordance with regulations adopted
12 by the State Department of Social Services.

13 (5) When out-of-home services are used, the
14 frequency of contact between the natural parents or legal
15 guardians and the child shall be specified in the case plan.
16 The frequency of those contacts shall reflect overall case
17 goals, and consider other principles outlined in this
18 section.

19 (6) When out-of-home placement is made, the case
20 plan shall include documentation of the provisions
21 specified in subdivisions (b), (c), and (d) of Section
22 16002.

23 (7) When out-of-home services are used, the case plan
24 shall include a recommendation regarding the
25 appropriateness of unsupervised visitation between the
26 child and any of the child's siblings. This recommendation
27 shall include a statement regarding the child's and the
28 siblings' willingness to participate in unsupervised
29 visitation. If the case plan includes a recommendation for
30 unsupervised sibling visitation, the plan shall also note
31 that information necessary to accomplish this visitation
32 has been provided to the child or to the child's siblings.

33 (8) *When out-of-home services are used and the goal
34 is reunification, the case plan shall describe the services
35 to be provided to assist in reunification and the services
36 to be provided concurrently to achieve legal permanency
37 with a new family if efforts to reunify fail.*

38 (9) (A) Parents and legal guardians shall have an
39 opportunity to review the case plan, sign it whenever
40 possible, and then shall receive a copy of the plan. In any

1 voluntary service or placement agreement, the parents
2 or legal guardians shall be required to review and sign the
3 case plan. Whenever possible, parents and legal
4 guardians shall participate in the development of the case
5 plan.

6 (B) Parents and legal guardians shall be advised that,
7 pursuant to Section 1228.1 of the Evidence Code, neither
8 their signature on the child welfare services case plan nor
9 their acceptance of any services prescribed in the child
10 welfare services case plan shall constitute an admission of
11 guilt or be used as evidence against the parent or legal
12 guardian in a court of law. However, they shall also be
13 advised that the parent's or guardian's failure to
14 cooperate, except for good cause, in the provision of
15 services specified in the child welfare services case plan
16 may be used in any hearing held pursuant to Section
17 366.26 as evidence in determining whether parental
18 rights should be terminated.

19 (9)

20 (10) The case plan shall be included in the court report
21 and shall be considered by the court at the initial hearing
22 and each review hearing. Modifications to the case plan
23 made during the period between review hearings need
24 not be approved by the court if the casework supervisor
25 for that case determines that the modifications further
26 the goals of the plan.

27 (g) If the court finds, after considering the case plan,
28 that unsupervised sibling visitation is appropriate and has
29 been consented to, the court shall order that the child or
30 the child's siblings be provided with information
31 necessary to accomplish this visitation. Nothing in this
32 section shall be construed to require or prohibit the
33 probation officer's facilitation, transportation, or
34 supervision of visits between the child and his or her
35 siblings.

36 (h) The case plan documentation on sibling
37 placements required under this section shall not require
38 modification of existing case plan forms until the Child
39 Welfare Services Case Management System is
40 implemented on a statewide basis.

1 SEC. 14. Notwithstanding Section 17610 of the
2 Government Code, if the Commission on State Mandates
3 determines that this act contains costs mandated by the
4 state, reimbursement to local agencies and school
5 districts for those costs shall be made pursuant to Part 7
6 (commencing with Section 17500) of Division 4 of Title
7 2 of the Government Code. If the statewide cost of the
8 claim for reimbursement does not exceed one million
9 dollars (\$1,000,000), reimbursement shall be made from
10 the State Mandates Claims Fund.

11 Notwithstanding Section 17580 of the Government
12 Code, unless otherwise specified, the provisions of this act
13 shall become operative on the same date that the act
14 takes effect pursuant to the California Constitution.

