

AMENDED IN ASSEMBLY APRIL 14, 1997

CALIFORNIA LEGISLATURE—1997–98 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1544**

---

---

**Introduced by Committee on Human Services**

March 5, 1997

---

---

An act to amend Sections 8614 ~~and~~, 8700, 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, ~~366.23~~, and 16501.1 of, *and to add Section 316.2 to*, the Welfare and Institutions Code, relating to minors.

LEGISLATIVE COUNSEL'S DIGEST

AB 1544, as amended, Committee on Human Services. Minors: *dependency*: 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 *birth relatives of a minor, including the* parents of the minor, *and the* minor to enter into a ~~postadoption~~ *kinship adoption* 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. It would require that if the minor has been found to come within the dependency jurisdiction of the juvenile court or is the subject of a petition for dependency jurisdiction he or she shall be represented by an attorney for purposes of consent to a kinship adoption.~~

*The bill also would make various changes in the law relating to dependency proceedings including specifying additional circumstances in which reunification services need not be provided. It also would require the juvenile court, at the detention hearing of a minor alleged to come within the dependency jurisdiction of the court or as soon thereafter as practicable, to conduct an inquiry, as specified, of the identity of all presumed or alleged fathers. If one or more men are identified as the father or possible father, the bill would require that they be served with a specified written notice. The bill would provide that while a dependency action for a child is pending, the dependency court would have exclusive jurisdiction to hear an action to determine a father and child relationship in that case.*

Because the bill would impose new or increased duties on ~~probation officers~~ *local officials*, 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 8700 of the Family Code is amended*  
12 *to read:*

13 8700. (a) Either birth parent may relinquish a child  
14 to the department or a licensed adoption agency for  
15 adoption by a written statement signed before two  
16 subscribing witnesses and acknowledged before an  
17 authorized official of the department or agency. The  
18 relinquishment, when reciting that the person making it  
19 is entitled to the sole custody of the child and  
20 acknowledged before the officer, is prima facie evidence  
21 of the right of the person making it to the sole custody of  
22 the child and the person's sole right to relinquish.

23 (b) A ~~birth~~ *relinquishing* parent who is a minor has the  
24 right to relinquish the ~~birth-parent's~~ *his or her* child for  
25 adoption to the department or a licensed adoption  
26 agency, and the relinquishment is not subject to  
27 revocation by reason of the minority.

28 (c) If a ~~birth~~ *relinquishing* parent resides outside this  
29 state and the child is being or will be cared for and is or  
30 will be placed for adoption by the department or a  
31 licensed adoption agency, the birth parent may  
32 relinquish the child to the department or agency by a  
33 written statement signed by the birth parent before a  
34 notary on a form prescribed by the department, and  
35 previously signed by an authorized official of the



1 department or agency, which signifies the willingness of  
2 the department or agency to accept the relinquishment.

3 (d) The relinquishment authorized by this section has  
4 no effect until a certified copy is filed with the  
5 department. Upon filing with the department, the  
6 relinquishment is final and may be rescinded only by the  
7 mutual consent of the department or licensed adoption  
8 agency to which the child was relinquished and the birth  
9 parent or parents relinquishing the child.

10 (e) The ~~birth~~ *relinquishing* parent may name in the  
11 relinquishment the person or persons with whom the  
12 birth parent intends that placement of the child for  
13 adoption be made by the department or licensed  
14 adoption agency.

15 (f) Notwithstanding subdivision (d), if the  
16 relinquishment names the person or persons with whom  
17 placement by the department or licensed adoption  
18 agency is intended and the child is not placed in the home  
19 of the named person or persons or the child is removed  
20 from the home prior to the granting of the adoption, the  
21 department or agency shall mail a notice by certified  
22 mail, return receipt requested, to the birth parent signing  
23 the relinquishment within 72 hours of the decision not to  
24 place the child for adoption or the decision to remove the  
25 child from the home.

26 (g) The ~~birth~~ *relinquishing* parent has 30 days from  
27 the date on which the notice described in subdivision (f)  
28 was mailed to rescind the relinquishment.

29 (1) If the ~~birth~~ *relinquishing* parent requests rescission  
30 during the 30-day period, the department or licensed  
31 adoption agency shall rescind the relinquishment.

32 (2) If the ~~birth~~ *relinquishing* parent does not request  
33 rescission during the 30-day period, the department or  
34 licensed adoption agency shall select adoptive parents for  
35 the child.

36 (3) If the ~~birth~~ *relinquishing* parent and the  
37 department or licensed adoption agency wish to identify  
38 a different person or persons during the 30-day period  
39 with whom the child is intended to be placed, the initial  
40 relinquishment shall be rescinded and a new



1 relinquishment identifying the person or persons  
2 completed.

3 (h) *If the parent has relinquished a child, who has*  
4 *been found to come within Section 300 of the Welfare and*  
5 *Institutions Code or is the subject of a petition for*  
6 *jurisdiction of the juvenile court under Section 300 of the*  
7 *Welfare and Institutions Code, to the department or a*  
8 *licensed adoption agency for the purpose of adoption, the*  
9 *department or agency accepting the relinquishment shall*  
10 *provide written notice of the relinquishment within five*  
11 *court days to all of the following:*

12 (1) *The juvenile court having jurisdiction of the child.*

13 (2) *The child's attorney, if any.*

14 (3) *The relinquishing parent's attorney, if any.*

15 (i) The filing of the relinquishment with the  
16 department terminates all parental rights and  
17 responsibilities with regard to the child, except as  
18 provided in subdivisions (f) and (g).

19 SEC. 3. Section 8714.5 is added to the Family Code, to  
20 read:

21 8714.5. (a) ~~Where a child has come within the~~  
22 ~~jurisdiction of the juvenile court pursuant to Section 300~~  
23 ~~of the Welfare and Institutions Code, a petition seeking~~  
24 ~~adoption of the child may be filed by a relative as defined~~  
25 ~~in subdivision (e) of Section 8714.7, in the county where~~  
26 ~~the child is a dependent or where the prospective~~  
27 ~~adopting relative resides. A relative desiring to adopt a~~  
28 *child may for that purpose file a petition in the county in*  
29 *which the petitioner resides. Where a child has been*  
30 *adjudged to be a dependent of the juvenile court*  
31 *pursuant to Section 300 of the Welfare and Institutions*  
32 *Code, and thereafter has been freed for adoption by the*  
33 *juvenile court, the petition may be filed either in the*  
34 *county where the petitioner resides or in the county*  
35 *where the child was freed for adoption.*

36 (b) Upon the filing of a petition for adoption by a  
37 relative, the county clerk shall immediately notify the  
38 State Department of Social Services in Sacramento in  
39 writing of the pendency of the proceeding and of any  
40 subsequent action taken.



1 (c) If the adopting relative has entered into a  
2 ~~postadoption~~ *kinship adoption* agreement with the birth  
3 parent as set forth in Section 8714.7, the ~~postadoption~~  
4 *kinship adoption* agreement, signed by the parties to the  
5 agreement, shall be attached to and filed with the petition  
6 for adoption under subdivision (a).

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

10 (e) If the child is the subject of a guardianship petition,  
11 the adoption petition shall so state and shall include the  
12 caption and docket number or have attached a copy of  
13 the letters of the guardianship or temporary  
14 guardianship. The petitioner shall notify the court of any  
15 petition for adoption. The guardianship proceeding shall  
16 be consolidated with the adoption proceeding.

17 (f) *The order of adoption shall contain the child's*  
18 *adopted name and, if requested by the adopting relative,*  
19 *or if requested by the child who is 12 years of age or older,*  
20 *the name the child had before adoption.*

21 ~~SEC. 3.~~

22 *SEC. 4.* Section 8714.7 is added to the Family Code, to  
23 read:

24 8714.7. (a) Nothing in the *adoption* laws of this state  
25 shall be construed to prevent ~~an adopting relative, the~~  
26 *adopting parent or parents, the birth relatives, including*  
27 *the birth parent or parents,* and the child from entering  
28 into a written agreement to permit continuing contact  
29 between the birth ~~parent, birth relatives~~ *relatives,*  
30 *including the birth parent or parents,* and the child if the  
31 agreement is found by the court to be in the best interests  
32 of the ~~minor~~ *child* at the time the adoption petition is  
33 granted. ~~Any postadoption agreement made pursuant to~~  
34 ~~this section shall be limited to privileges related to~~  
35 ~~visitation, contact, or sharing of information about the~~  
36 ~~child.~~ *The terms of any kinship adoption agreement*  
37 *executed under this section shall be limited to, but need*  
38 *not include, all of the following:*

39 (1) *Provisions for visitation between the child and a*  
40 *birth parent or parents and other birth relatives.*



1 (2) *Provisions for future contact between a birth*  
2 *parent or parents or other birth relatives, or both, and the*  
3 *child or an adoptive parent, or both.*

4 (3) *Provisions for the sharing of information about the*  
5 *child in the future.*

6 (b) At the time an adoption decree is entered  
7 pursuant to a petition filed under Section 8714.5, the court  
8 entering the decree may grant postadoption privileges  
9 when an agreement for those privileges has been entered  
10 into pursuant to subdivision (a).

11 (c) ~~This section applies and permits a postadoption~~  
12 ~~agreement only to minors free from parental custody and~~  
13 ~~control pursuant to Chapter 2 (commencing with Section~~  
14 ~~7820) of Part 4 of Division 12, or relinquished for adoption~~  
15 ~~pursuant to this chapter, where is applicable only to~~  
16 ~~kinship adoption agreements in which the adopting~~  
17 ~~parent is a relative of the minor child or a relative to the~~  
18 ~~minor's child's half-sibling and the adoption is pursuant to~~  
19 ~~a petition~~ *petition is filed under Section 8714.5. For*  
20 *purposes of this section and Section 8714.5, "relative"*  
21 *means an adult who is related to the minor child by blood*  
22 *or affinity, including all relatives those adults whose*  
23 *status is preceded by the words "step," "great,"*  
24 *"great-great," or "grand."*

25 (d) ~~A minor~~ *The child who is the subject of the*  
26 *adoption petition shall be considered a party to the*  
27 *kinship adoption agreement. The written consent to the*  
28 *terms and conditions of the kinship adoption agreement*  
29 *and any subsequent modifications of the agreement by a*  
30 *child who is 12 years of age and older shall be considered*  
31 ~~a party to the postadoption agreement whose written~~  
32 ~~consent to the terms and conditions of the postadoption~~  
33 ~~agreement and any subsequent modifications of the~~  
34 ~~agreement~~ *is a necessary condition to the granting of*  
35 *privileges regarding visitation, contact, or sharing of*  
36 *information about the child, unless the court finds by a*  
37 *preponderance of the evidence that the agreement, as*  
38 *written, is in the best interests of the minor. Any child*  
39 *who has been found to come within Section 300 of the*  
40 *Welfare and Institutions Code or who is the subject of a*



1 *petition for jurisdiction of the juvenile court under*  
2 *Section 300 of the Welfare and Institutions Code shall be*  
3 *represented by an attorney for purposes of consent to the*  
4 *kinship adoption agreement.*

5 (e) A ~~postadoption~~ *kinship adoption* agreement shall  
6 contain the following warnings in bold type:

7 ~~(1) Once granted by the court, this adoption is~~  
8 ~~irrevocable, even if the adopting parents do not abide by~~  
9 ~~the postadoption agreement or subsequent modifications~~  
10 ~~to the agreement.~~

11 ~~(2) The failure of the birth parent or parents or the~~  
12 ~~adopting parent or parents or others to abide by the terms~~  
13 ~~of the agreement or a subsequent modification of the~~  
14 ~~agreement does not constitute a basis to set aside a decree~~  
15 ~~of adoption, rescind a relinquishment or consent to~~  
16 ~~adoption, modify or vacate an order to terminate of~~  
17 ~~parental rights, or any other prior court order.~~

18 ~~(3) Any disagreement or litigation regarding the~~  
19 ~~terms of the agreement shall not affect the validity of the~~  
20 ~~relinquishment or termination of parental rights, the~~  
21 ~~adoption, or the custody of the adoptee.~~

22 ~~(4) Any failure to comply with the terms of an~~  
23 ~~agreement is not grounds for setting aside an adoption~~  
24 ~~decree or revocation of a written consent to an adoption.~~

25 *(1) After the adoption petition has been granted by*  
26 *the court, the adoption cannot be set aside due to the*  
27 *failure of an adopting parent, a birth parent, a birth*  
28 *relative, or the child to follow the terms of this agreement*  
29 *or a later change to this agreement.*

30 *(2) A disagreement between the parties or litigation*  
31 *brought to enforce or modify the agreement shall not*  
32 *affect the validity of the adoption and shall not serve as*  
33 *a basis for orders affecting the custody of the child.*

34 *(3) A court will not act on a petition to change or*  
35 *enforce this agreement unless the petitioner*  
36 *participated, or attempted to participate, in good faith*  
37 *mediation to resolve the dispute.*

38 (f) Enforcement of the ~~postadoption~~ *kinship adoption*  
39 agreement shall be under the continuing jurisdiction of  
40 the court granting the petition of adoption. However,



1 before a court may enter an order requiring compliance  
2 with the agreement, the court shall find that the party  
3 seeking the enforcement participated, or attempted to  
4 participate, in good faith in mediating the dispute giving  
5 rise to the action *and that the enforcement is in the best*  
6 *interest of the child* prior to filing the civil action.

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

10 (h) A ~~postadoption~~ *kinship adoption* agreement may  
11 be modified ~~under the following circumstances:~~

12 ~~(1) Upon agreement of all parties where a signed copy~~  
13 ~~of the modified postadoption agreement is filed with the~~  
14 ~~court granting the petition of adoption.~~

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

24 ~~(3) or terminated only as follows:~~

25 ~~(1) All parties, including the child if the child is 12~~  
26 ~~years of age or older, at the time of the requested~~  
27 ~~modification, have signed the modified kinship adoption~~  
28 ~~agreement and the agreement is filed with the court that~~  
29 ~~granted the petition of adoption.~~

30 ~~(2) The court finds all of the following:~~

31 ~~(A) The modification is necessary to serve the best~~  
32 ~~interests of the child.~~

33 ~~(B) There has been a substantial change of~~  
34 ~~circumstances since the original agreement was executed~~  
35 ~~and ordered.~~

36 ~~(C) The party seeking the modification has~~  
37 ~~participated, or attempted to participate, in good faith~~  
38 ~~mediation prior to seeking court approval of the proposed~~  
39 ~~modification.~~



1 (i) All costs and fees of mediation shall be borne by  
2 each party. All costs and fees of litigation shall be borne  
3 by the party filing the action to modify or enforce the  
4 agreement when no party has been found by the court as  
5 failing to comply with an existing ~~postadoption~~ *kinship*  
6 *adoption* agreement. Otherwise, a party found by the  
7 court as failing to comply *without good cause* with an  
8 existing agreement shall bear all the costs and fees of  
9 litigation.

10 (i)

11 (j) The court may not set aside a decree of adoption,  
12 rescind a relinquishment, or modify an order to terminate  
13 parental rights or any other prior court because either a  
14 birth parent ~~or adoptive parent~~, *adoptive parent*, *birth*  
15 *relative*, or the child fails to comply with the ~~postadoption~~  
16 *kinship adoption* agreement or subsequent modifications  
17 to the agreement.

18 (j) ~~Any modification of the postadoption agreement~~  
19 ~~shall be signed by all parties to the agreement as required~~  
20 ~~by this section and filed with the court.~~

21 (k) ~~A granting of postadoption contact privileges shall~~  
22 ~~not prevent the court from thereafter ordering the~~  
23 ~~termination of the privileges provided in the agreement~~  
24 ~~where the court finds by a preponderance of the~~  
25 ~~evidence that a termination of the privileges is in the best~~  
26 ~~interests of the minor.~~

27 ~~SEC. 4.~~

28 *SEC. 5.* Section 8715 of the Family Code is amended  
29 to read:

30 8715. The department or licensed adoption agency,  
31 whichever is a party to or joins in the petition, shall submit  
32 a full report of the facts of the case to the court. Where  
33 a petition for adoption by a relative has been filed with a  
34 ~~postadoption~~ *kinship adoption* agreement pursuant to  
35 Section 8714.7, the report shall address whether the  
36 ~~postadoption~~ *kinship adoption* agreement is in the best  
37 interests of the child who is the subject of the petition.  
38 The department may also submit a report in those cases  
39 in which a licensed adoption agency is a party or joins in  
40 the adoption petition.



1 ~~SEC. 5.~~

2 SEC. 6. Section 316.2 is added to the Welfare and  
3 Institutions Code, to read:

4 316.2. (a) At the detention hearing, or as soon  
5 thereafter as practicable, the court shall inquire of the  
6 mother and any other appropriate person as to the  
7 identity of all presumed or alleged fathers. The presence  
8 at the hearing of a man claiming to be the father shall not  
9 relieve the court of its duty of inquiry. The inquiry may  
10 include all of the following:

11 (1) Whether a judgment of paternity already exists.

12 (2) Whether the mother was married or believed she  
13 was married at the time of conception of the child or at  
14 any time thereafter.

15 (3) Whether the mother was cohabiting with a man at  
16 the time of conception or birth of the child.

17 (4) Whether the mother has received support  
18 payments or promises of support with respect to the child  
19 or in connection with her pregnancy.

20 (5) Whether any man has formally or informally  
21 acknowledged or declared his possible paternity of the  
22 child.

23 (6) Whether paternity tests have been administered  
24 and the results, if any.

25 (b) If, after the court inquiry, one or more men are  
26 identified as the father or possible father, each father or  
27 possible father shall be served with written notice  
28 alleging that he is or could be the father of the child. The  
29 notice shall state that the child is the subject of  
30 proceedings under Section 300 and that the proceedings  
31 could result in the termination of parental rights and  
32 adoption of the child unless he (1) appears in the  
33 referenced dependency action at the date, time, and  
34 place stated in the notice and (2) files an action under  
35 Section 7630 or 7631 of the Family Code within 30 days of  
36 the notice. The notice shall also state that until he appears  
37 and files an action he shall receive no further notice of the  
38 dependency proceedings, including any termination  
39 proceedings. Judicial Council form Paternity-Waiver of  
40 Rights (JV-505) shall be included with the notice.



1 *Nothing in this section shall preclude a court from*  
2 *terminating a father's parental rights even if he appears*  
3 *at the hearing and files an action under Section 7630 or*  
4 *7631 of the Family Code.*

5 *(c) If a man appears in the dependency action and files*  
6 *an action under Section 7630 or 7631 of the Family Code,*  
7 *the court shall determine if he is the father. If the man*  
8 *establishes that he is a statutorily presumed father and the*  
9 *period provided by law for the provision of reunification*  
10 *services has not terminated, he shall be entitled to*  
11 *reunification services unless otherwise disallowed by law.*  
12 *If the man establishes that he is a biological father and the*  
13 *period provided by law for the provision of reunification*  
14 *services has not terminated, the court may order*  
15 *reunification services if the court determines that the*  
16 *services will benefit the child.*

17 *(d) After a petition has been filed to declare a child a*  
18 *dependent of the court, and until the time that the*  
19 *petition is dismissed, dependency is terminated, or*  
20 *parental rights are terminated pursuant to Section 366.26*  
21 *or proceedings are commenced under Part 4*  
22 *(commencing with Section 7800) of Division 12 of the*  
23 *Family Code, the juvenile court which has jurisdiction of*  
24 *the dependency action shall have exclusive jurisdiction to*  
25 *hear an action filed under Section 7630 or 7631 of the*  
26 *Family Code.*

27 *SEC. 7. Section 358.1 of the Welfare and Institutions*  
28 *Code is amended to read:*

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

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



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

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

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

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

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

22 ~~SEC. 6. Section 360 of the Welfare and Institutions~~  
23 ~~Code is amended to read:~~

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

27 (a) ~~Notwithstanding any other provision of law, if the~~  
28 ~~court finds that the minor is a person described by Section~~  
29 ~~300 and the parent has advised the court that the parent~~  
30 ~~is not interested in family maintenance or family~~  
31 ~~reunification services, the court shall advise the parent of~~  
32 ~~the right to voluntarily relinquish the minor for adoption.~~

33 (b) ~~Notwithstanding any other provision of law, if the~~  
34 ~~court finds that the minor is a person described by Section~~  
35 ~~300 and the parent has advised the court that the parent~~  
36 ~~is not interested in family maintenance or family~~  
37 ~~reunification services, it may, in addition to or in lieu of~~  
38 ~~adjudicating the minor a dependent child of the court,~~  
39 ~~order a legal guardianship, appoint a legal guardian, and~~  
40 ~~issue letters of guardianship, if the court determines that~~



1 a guardianship is in the best interest of the minor,  
2 provided the parent and the minor agree to the  
3 guardianship, unless the minor's age or physical,  
4 emotional, or mental condition prevents the minor's  
5 meaningful response. The court shall advise the parent  
6 and the minor that no reunification services will be  
7 provided as a result of the establishment of a  
8 guardianship. The proceeding for the appointment of a  
9 guardian shall be in the juvenile court.

10 Any application for termination of guardianship shall  
11 be filed in juvenile court in a form as may be developed  
12 by the Judicial Council pursuant to Section 68511 of the  
13 Government Code. Section 388 shall apply to this order  
14 of guardianship.

15 No person shall be appointed a legal guardian under  
16 this section until an assessment as specified in subdivision  
17 (g) of Section 361.5 is read and considered by the court  
18 and reflected in the minutes of the court. The assessment  
19 shall include the following:

20 (1) Current search efforts for, and notification of, a  
21 noneustodial parent in the manner provided in Section  
22 337.

23 (2) A review of the amount of and nature of any  
24 contact between the minor and his or her parents since  
25 the filing of the petition.

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

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

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



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

3 ~~(6) An analysis of the likelihood that the minor would~~  
4 ~~be adopted if parental rights were terminated.~~

5 ~~The person responsible for preparing the assessment~~  
6 ~~may be called and examined by any party to the~~  
7 ~~guardianship proceeding.~~

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

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

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.~~

29 ~~SEC. 8. Section 361 of the Welfare and Institutions~~  
30 ~~Code is amended to read:~~

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



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

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

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

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

38 (3) The minor is suffering severe emotional damage,  
39 as indicated by extreme anxiety, depression, withdrawal,  
40 or untoward aggressive behavior toward self or others,



1 and there are no reasonable means by which the minor's  
2 emotional health may be protected without removing the  
3 minor from the physical custody of his or her parent or  
4 guardian.

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

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

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

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.~~

39 SEC. 9. Section 361.3 of the Welfare and Institutions  
40 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, *including*  
19 *consideration of any criminal record or child abuse*  
20 *allegations.*

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

22 (A) Provide a secure and stable environment for the  
23 child.

24 (B) Exercise proper and effective care and control of  
25 the child.

26 (C) Provide a home and the necessities of life for the  
27 child.

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

29 (E) Facilitate court-ordered reunification efforts with  
30 the parents.

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

32 (G) Provide legal permanence for the child if  
33 reunification fails.

34 In this regard, the Legislature declares that a physical  
35 disability, such as blindness or deafness, is no bar to the  
36 raising of children, and a county social worker's  
37 determination as to the ability of a disabled relative to  
38 exercise care and control should center upon whether the  
39 relative's disability prevents him or her from exercising  
40 care and control. The court shall order the parent to



1 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.~~

4 *SEC. 10.* Section 361.5 of the Welfare and Institutions  
5 Code, as amended by Section 2.5 of Chapter 1083 of the  
6 Statutes of 1996, is amended to read:

7 361.5. (a) Except as provided in subdivision (b) *of*  
8 *this section or in subdivision (c) of Section 316.2* or when  
9 the parent has voluntarily relinquished the minor and the  
10 relinquishment has been filed with the State Department  
11 of Social Services or, upon the establishment of an order  
12 of guardianship pursuant to Section 360, whenever a  
13 minor is removed from a parent's or guardian's custody,  
14 the juvenile court shall order the probation officer to  
15 provide child welfare services to the minor and the  
16 minor's parents or guardians for the purpose of  
17 ~~concurrently~~ facilitating reunification of the family ~~and~~  
18 ~~achieving legal permanence for the child with a new~~  
19 ~~family if efforts to reunify fail~~, as follows:

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

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

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



1 within the extended time period. The court also shall  
2 make findings pursuant to subdivision (a) of Section 366  
3 and subdivision (e) of Section 358.1. When counseling or  
4 other treatment services are ordered, the parent or  
5 guardian shall be ordered to participate in those services,  
6 unless the parent's or guardian's participation is deemed  
7 by the court to be inappropriate or potentially  
8 detrimental to the minor. Physical custody of the minor  
9 by the parents or guardians during the 18-month period  
10 shall not serve to interrupt the running of the period. If  
11 at the end of the 18-month period, a minor cannot be  
12 safely returned to the care and custody of a parent or  
13 guardian without court supervision, but the minor clearly  
14 desires contact with the parent or guardian, the court  
15 shall take the child's desire into account in devising a  
16 permanency plan.

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

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

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

36 (1) That the whereabouts of the parent or guardian is  
37 unknown. A finding pursuant to this paragraph shall be  
38 supported by an affidavit or by proof that a reasonably  
39 diligent search has failed to locate the parent or guardian.



1 The posting or publication of notices is not required in  
2 that search.

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

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

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

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

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

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



1 the minor's, sibling's, or half-sibling's genital organs or  
2 rectum by any animate or inanimate object, for the sexual  
3 gratification of the parent or guardian, or for the sexual  
4 gratification of another person with the actual or implied  
5 consent of the parent or guardian.

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

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

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

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

38 (10) That (A) the court ordered a permanent plan of  
39 adoption, guardianship, or long-term foster care for any  
40 siblings or half-siblings of the minor because the parent



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

13 (11) That the parent or guardian has been convicted  
14 of a violent felony, as defined in subdivision (c) of Section  
15 667.5 of the Penal Code.

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

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

32 *The parent or guardian shall be represented by counsel*  
33 *and shall execute a waiver of services form to be adopted*  
34 *by the Judicial Council. The court shall advise the parent*  
35 *or guardian of any right to services and of the possible*  
36 *consequences of a waiver of services, including the*  
37 *termination of parental rights and placement of the child*  
38 *for adoption. The court shall not accept the waiver of*  
39 *services unless it states on the record its finding that the*



1 *parent or guardian has knowingly and intelligently*  
2 *waived the right to services.*

3 (c) In deciding whether to order reunification in any  
4 case in which this section applies, the court shall hold a  
5 dispositional hearing. The probation officer shall prepare  
6 a report which discusses whether reunification services  
7 shall be provided. When it is alleged, pursuant to  
8 paragraph (2) of subdivision (b), that the parent is  
9 incapable of utilizing services due to mental disability,  
10 the court shall order reunification services unless  
11 competent evidence from mental health professionals  
12 establishes that, even with the provision of services, the  
13 parent is unlikely to be capable of adequately caring for  
14 the child within 12 months.

15 The court shall not order reunification for a parent or  
16 guardian described in paragraph (3), (4), (6), (8), (9),  
17 (11), (12), or (13) of subdivision (b) unless the court  
18 finds, by clear and convincing evidence, that  
19 reunification is in the best interest of the minor.

20 In addition, the court shall not order reunification in  
21 any situation described in paragraph (5) of subdivision  
22 (b) unless it finds that, based on competent testimony,  
23 those services are likely to prevent reabuse or continued  
24 neglect of the minor or that failure to try reunification  
25 will be detrimental to the minor because the minor is  
26 closely and positively attached to that parent. The  
27 probation officer shall investigate the circumstances  
28 leading to the removal of the minor and advise the court  
29 whether there are circumstances which indicate that  
30 reunification is likely to be successful or unsuccessful and  
31 whether failure to order reunification is likely to be  
32 detrimental to the minor.

33 The failure of the parent to respond to previous  
34 services, the fact that the minor was abused while the  
35 parent was under the influence of drugs or alcohol, a past  
36 history of violent behavior, or testimony by a competent  
37 professional that the parent's behavior is unlikely to be  
38 changed by services are among the factors indicating that  
39 reunification services are unlikely to be successful. The  
40 fact that a parent or guardian is no longer living with an



1 individual who severely abused the minor may be  
2 considered in deciding that reunification services are  
3 likely to be successful, provided that the court shall  
4 consider any pattern of behavior on the part of the parent  
5 that has exposed the minor to repeated abuse.

6 (d) If reunification services are not ordered pursuant  
7 to paragraph (1) of subdivision (b) and the whereabouts  
8 of a parent become known within six months of the  
9 out-of-home placement of the minor, the court shall order  
10 the probation officer to provide family reunification  
11 services in accordance with this subdivision. However,  
12 the time limits specified in subdivision (a) and Section  
13 366.25 are not tolled by the parent's absence.

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

29 (A) Maintaining contact between parent and minor  
30 through collect telephone calls.

31 (B) Transportation services, where appropriate.

32 (C) Visitation services, where appropriate.

33 (D) Reasonable services to extended family members  
34 or foster parents providing care for the minor if the  
35 services are not detrimental to the minor.

36 An incarcerated parent may be required to attend  
37 counseling, parenting classes, or vocational training  
38 programs as part of the service plan if these programs are  
39 available.



1 (2) The presiding judge of the juvenile court of each  
2 county may convene representatives of the county  
3 welfare department, the sheriff's department, and other  
4 appropriate entities for the purpose of developing and  
5 entering into protocols for ensuring the notification,  
6 transportation, and presence of an incarcerated or  
7 institutionalized parent at all court hearings involving  
8 proceedings affecting the minor pursuant to Section 2625  
9 of the Penal Code.

10 (3) Notwithstanding any other provision of law, if the  
11 incarcerated parent is a woman seeking to participate in  
12 the community treatment program operated by the  
13 Department of Corrections pursuant to Chapter 4.8  
14 (commencing with Section 1174) of Title 7 of Part 2 of, or  
15 Chapter 4 (commencing with Section 3410) of Title 2 of  
16 Part 3 of the Penal Code, the court shall determine  
17 whether the parent's participation in a program is in the  
18 child's best interest and whether it is suitable to meet the  
19 needs of the parent and child.

20 (f) If a court, pursuant to paragraph (2), (3), (4), (5),  
21 (6), (7), (8), (9), (10), (11), (12), or (13) of subdivision  
22 (b) or paragraph (1) of subdivision (e), does not order  
23 reunification services, it shall conduct a hearing pursuant  
24 to Section 366.25 or 366.26 within 120 days of the  
25 dispositional hearing. However, the court shall not  
26 schedule a hearing so long as the other parent is being  
27 provided reunification services pursuant to subdivision  
28 (a). The court may continue to permit the parent to visit  
29 the minor unless it finds that visitation would be  
30 detrimental to the minor.

31 (g) Whenever a court orders that a hearing shall be  
32 held pursuant to Section 366.25 or 366.26 it shall direct the  
33 agency supervising the minor and the licensed county  
34 adoption agency, or the State Department of Social  
35 Services when it is acting as an adoption agency in  
36 counties which are not served by a county adoption  
37 agency, to prepare an assessment regarding the  
38 likelihood that the minor will be adopted if parental  
39 rights are terminated. The assessment 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 and an analysis of whether any of the minor's  
9 characteristics would make it difficult to find a person  
10 willing to adopt the minor.

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

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

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

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

35 (2) The circumstances under which the abuse or harm  
36 was inflicted on the minor or the minor's sibling or  
37 half-sibling.

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



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

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

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

8 (i) The court shall read into the record the basis for a  
9 finding of severe sexual abuse or the infliction of severe  
10 physical harm under paragraph (6) of subdivision (b),  
11 and shall also specify the factual findings used to  
12 determine that the provision of reunification services to  
13 the offending parent or guardian would not benefit the  
14 minor.

15 (j) 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. 10.~~

20 *SEC. 11.* Section 361.5 of the Welfare and Institutions  
21 Code, as added by Section 2.7 of Chapter 1083 of the  
22 Statutes of 1996, is amended to read:

23 361.5. (a) Except as provided in subdivision (b) of  
24 *this section or in subdivision (c) of Section 316.2*, or when  
25 the parent has voluntarily relinquished the minor and the  
26 relinquishment has been filed with the State Department  
27 of Social Services, or upon the establishment of an order  
28 of guardianship pursuant to Section 360, whenever a  
29 minor is removed from a parent's or guardian's custody,  
30 the juvenile court shall order the probation officer to  
31 provide child welfare services to the minor and the  
32 minor's parents or guardians for the purpose of  
33 ~~concurrently~~ facilitating reunification of the family ~~and~~  
34 ~~achieving legal permanence for the child with a new~~  
35 ~~family if efforts to reunify fail~~, as follows:

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



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

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

33 In cases where the minor was under the age of three  
34 years on the date of the initial removal from the physical  
35 custody of his or her parent or guardian, the court shall  
36 inform the parent or guardian that the failure of the  
37 parent or guardian to participate regularly in any  
38 court-ordered treatment programs or to cooperate or  
39 avail himself or herself of services provided as part of the  
40 child welfare services case plan may result in a



1 termination of efforts to reunify the family after six  
2 months.

3 Except in cases where, pursuant to subdivision (b), the  
4 court does not order reunification services, the court shall  
5 inform the parent or parents of Section 366.25 or 366.26  
6 and shall specify that the parent's or parents' parental  
7 rights may be terminated.

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

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

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

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

33 (4) That the parent or guardian of the minor has  
34 caused the death of another minor through abuse or  
35 neglect.

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

39 (6) That the minor has been adjudicated a dependent  
40 pursuant to any subdivision of Section 300 as a result of



1 severe sexual abuse or the infliction of severe physical  
2 harm to the minor, a sibling, or a half-sibling by a parent  
3 or guardian, as defined in this subdivision, and the court  
4 makes a factual finding that it would not benefit the  
5 minor to pursue reunification services with the offending  
6 parent or guardian.

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

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

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

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



1 (9) That the minor has been found to be a child  
2 described in subdivision (g) of Section 300, that the  
3 parent or guardian of the minor willfully abandoned the  
4 minor, and the court finds that the abandonment itself  
5 constituted a serious danger to the child. For the purposes  
6 of this paragraph, “serious danger” means that without  
7 the intervention of another person or agency, the minor  
8 would have sustained severe or permanent disability,  
9 injury, illness, or death. For purposes of this paragraph,  
10 “willful abandonment” shall not be construed as actions  
11 taken in good faith by the parent without the intent of  
12 placing the minor in serious danger.

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

28 (11) That the parent or guardian has been convicted  
29 of a violent felony, as defined in subdivision (c) of Section  
30 667.5 of the Penal Code.

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



1 (13) That the parent or guardian of the minor has  
2 advised the court that he or she is not interested in  
3 receiving family maintenance or family reunification  
4 services or having the minor returned to or placed in his  
5 or her custody *and does not wish to receive family*  
6 *maintenance or reunification services.*

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

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

29 The court shall not order reunification for a parent or  
30 guardian described in paragraph (3), (4), (6), (8), (9),  
31 (11), (12), or (13) of subdivision (b) unless the court  
32 finds, by clear and convincing evidence, that  
33 reunification is in the best interest of the minor.

34 In addition, the court shall not order reunification in  
35 any situation described in paragraph (5) of subdivision  
36 (b) unless it finds that, based on competent testimony,  
37 those services are likely to prevent reabuse or continued  
38 neglect of the minor or that failure to try reunification  
39 will be detrimental to the minor because the minor is  
40 closely and positively attached to that parent. The



1 probation officer shall investigate the circumstances  
2 leading to the removal of the minor and advise the court  
3 whether there are circumstances which indicate that  
4 reunification is likely to be successful or unsuccessful and  
5 whether failure to order reunification is likely to be  
6 detrimental to the minor.

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

20 (d) If reunification services are not ordered pursuant  
21 to paragraph (1) of subdivision (b) and the whereabouts  
22 of a parent become known within six months of the  
23 out-of-home placement of the minor, the court shall order  
24 the probation officer to provide family reunification  
25 services in accordance with this subdivision. However,  
26 the time limits specified in subdivision (a) and Section  
27 366.25 are not tolled by the parent's absence.

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



1 (a). Services may include, but shall not be limited to, all  
2 of the following:

3 (A) Maintaining contact between the parent and  
4 minor through collect telephone calls.

5 (B) Transportation services, where appropriate.

6 (C) Visitation services, where appropriate.

7 (D) Reasonable services to extended family members  
8 or foster parents providing care for the minor if the  
9 services are not detrimental to the minor.

10 An incarcerated parent may be required to attend  
11 counseling, parenting classes, or vocational training  
12 programs as part of the service plan if these programs are  
13 available.

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

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

33 (f) If a court, pursuant to paragraph (2), (3), (4), (5),  
34 (6), (7), (8), (9), (10), (11), (12), or (13) of subdivision  
35 (b) or paragraph (1) of subdivision (e), does not order  
36 reunification services, it shall conduct a hearing pursuant  
37 to Section 366.25 or 366.26 within 120 days of the  
38 dispositional hearing. However, the court shall not  
39 schedule a hearing so long as the other parent is being  
40 provided reunification services pursuant to subdivision



1 (a). The court may continue to permit the parent to visit  
2 the minor unless it finds that visitation would be  
3 detrimental to the minor.

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

24 ~~SEC. 11.~~

25 *SEC. 12.* Section 366.21 of the Welfare and Institutions  
26 Code, as amended by Section 6.9 of Chapter 1084 of the  
27 Statutes of 1996, is amended to read:

28 366.21. (a) Every hearing conducted by the juvenile  
29 court reviewing calendar. The court shall advise all  
30 persons present at the hearing of the date of the future  
31 hearing and of their right to be present and represented  
32 by counsel.

33 (b) Except as provided in Section 366.23 and  
34 subdivision (a) of Section 366.3, notice of the hearing shall  
35 be mailed by the probation officer to the same persons as  
36 in the original proceeding, to the minor's parent or  
37 guardian, to the foster parents, community care facility,  
38 or foster family agency having physical custody of the  
39 minor in the case of a minor removed from the physical  
40 custody of his or her parent or guardian, and to the



1 counsel of record if the counsel of record was not present  
2 at the time that the hearing was set by the court, by  
3 first-class mail addressed to the last known address of the  
4 person to be notified, or shall be personally served on  
5 those persons, not earlier than 30 days nor later than 15  
6 days preceding the date to which the hearing was  
7 continued. Service of a copy of the notice personally or by  
8 certified mail return receipt requested, or any other form  
9 of actual notice is equivalent to service by first-class mail.

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

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

1 (d) Prior to any hearing involving a minor in the  
2 physical custody of a community care facility or foster  
3 family agency that may result in the return of the minor  
4 to the physical custody of his or her parent or guardian,  
5 or in adoption or the creation of a legal guardianship, the  
6 facility or agency shall file with the court a report  
7 containing its recommendation for disposition. Prior to  
8 such a hearing involving a minor in the physical custody  
9 of a foster parent, the foster parent may file with the court  
10 a report containing his or her recommendation for  
11 disposition. The court shall consider the report and  
12 recommendation filed pursuant to this subdivision prior  
13 to determining any disposition.

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



1 to the custody of his or her parent or guardian. The court  
2 shall also inform the parent or guardian that if the minor  
3 cannot be returned home by the next review hearing, a  
4 proceeding pursuant to Section 366.26 may be instituted.  
5 This section does not apply in a case where, pursuant to  
6 Section 361.5, the court has ordered that reunification  
7 services shall not be provided.

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

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

29 If the minor had been placed under court supervision  
30 with a previously noncustodial parent pursuant to Section  
31 361.2, the court shall determine whether supervision is  
32 still necessary. The court may terminate supervision and  
33 transfer permanent custody to that parent, as provided  
34 for by paragraph (1) of subdivision (a) of Section 361.2.

35 In all other cases, the court shall direct that any  
36 reunification services previously ordered shall continue  
37 to be offered to the parent or guardian pursuant to the  
38 time periods set forth in subdivision (a) of Section 361.5,  
39 provided that the court may modify the terms and  
40 conditions of those services. If the minor is not returned



1 to his or her parent or guardian, the court shall determine  
2 whether reasonable services have been provided or  
3 offered to the parent or guardian which were designed to  
4 aid the parent or guardian in overcoming the problems  
5 which led to the initial removal and the continued  
6 custody of the minor. The court shall order that those  
7 services be initiated, continued, or terminated.

8 (f) At the review hearing held 12 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 court shall also determine whether  
18 reasonable services have been provided or offered to the  
19 parent or guardian which were designed to aid the parent  
20 or guardian to overcome the problems that led to the  
21 initial removal and continued custody of the minor. The  
22 failure of the parent or guardian to participate regularly  
23 in court-ordered treatment programs shall be prima facie  
24 evidence that return would be detrimental. In making its  
25 determination, the court shall review and consider the  
26 probation officer's report and recommendations and the  
27 report and recommendations of any child advocate  
28 appointed pursuant to Section 356.5; shall consider the  
29 efforts or progress, or both, demonstrated by the parent  
30 or guardian and the extent to which he or she availed  
31 himself or herself of services provided; and shall make  
32 appropriate findings pursuant to subdivision (a) of  
33 Section 366. Whether or not the minor is returned to his  
34 or her parent or guardian, the court shall specify the  
35 factual basis for its decision. If the minor is not returned  
36 to a parent or guardian, the court shall specify the factual  
37 basis for its conclusion that the return would be  
38 detrimental. The court also shall make a finding pursuant  
39 to subdivision (a) of Section 366.



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

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

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

29 (3) Order that a hearing be held within 120 days,  
30 pursuant to Section 366.26, if there is clear and convincing  
31 evidence that reasonable services have been provided or  
32 offered to the parents. Evidence that the minor has been  
33 placed with a foster family that is eligible to adopt a  
34 minor, or has been placed in a preadoptive home, in and  
35 of itself, shall not be deemed a failure to provide or offer  
36 reasonable services.

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



1 minor pending the hearing unless it finds that visitation  
2 would be detrimental to the minor.

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

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

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

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

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

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



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

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

8 ~~SEC. 12.~~

9 *SEC. 13.* Section 366.21 of the Welfare and Institutions  
10 Code, as amended by Section 7.9 of Chapter 1084 of the  
11 Statutes of 1996, is amended to read:

12 366.21. (a) Every hearing conducted by the juvenile  
13 court reviewing the status of a dependent child shall be  
14 placed on the appearance calendar. The court shall advise  
15 all persons present at the hearing of the date of the future  
16 hearing and of their right to be present and represented  
17 by counsel.

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

35 The notice shall contain a statement regarding the  
36 nature of the hearing to be held and any change in the  
37 custody or status of the minor being recommended by the  
38 supervising agency. The notice to the foster parent shall  
39 indicate that the foster parent may attend all hearings or



1 may submit any information he or she deems relevant to  
2 the court in writing.

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

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

39 (e) At the review hearing held six months after the  
40 initial dispositional hearing, the court shall order the



1 return of the minor to the physical custody of his or her  
2 parent or guardian unless the court finds, by a  
3 preponderance of the evidence, that the return of the  
4 minor to his or her parent or guardian would create a  
5 substantial risk of detriment to the safety, protection, or  
6 physical or emotional well-being of the minor. The  
7 probation officer shall have the burden of establishing  
8 that detriment. The failure of the parent or guardian to  
9 participate regularly in court-ordered treatment  
10 programs shall be prima facie evidence that return would  
11 be detrimental. In making its determination, the court  
12 shall review and consider the probation officer's report  
13 and recommendations and the report and  
14 recommendations of any child advocate appointed  
15 pursuant to Section 356.5; and shall consider the efforts or  
16 progress, or both, demonstrated by the parent or  
17 guardian and the extent to which he or she availed  
18 himself or herself of services provided. Whether or not  
19 the minor is returned to a parent or guardian, the court  
20 shall specify the factual basis for its conclusion that the  
21 return would be detrimental or would not be  
22 detrimental. The court also shall make appropriate  
23 findings pursuant to subdivision (a) of Section 366; and  
24 where relevant, shall order any additional services  
25 reasonably believed to facilitate the return of the minor  
26 to the custody of his or her parent or guardian. The court  
27 shall also inform the parent or guardian that if the minor  
28 cannot be returned home by the next review hearing, a  
29 proceeding pursuant to Section 366.26 may be instituted.  
30 This section does not apply in a case where, pursuant to  
31 Section 361.5, the court has ordered that reunification  
32 services shall not be provided.

33 If the minor was under the age of three years on the  
34 date of the initial removal and the court finds by clear and  
35 convincing evidence that the parent failed to participate  
36 regularly in any court-ordered treatment plan, the court  
37 may schedule a hearing pursuant to Section 366.26 within  
38 120 days. If, however, the court finds there is a substantial  
39 probability that the minor, who was under the age of  
40 three years on the date of initial removal, may be



1 returned to his or her parent or guardian within six  
2 months or that reasonable services have not been  
3 provided, the court shall continue the case.

4 If the minor was removed initially under subdivision  
5 (g) of Section 300 and the court finds by clear and  
6 convincing evidence that the whereabouts of the parent  
7 are still unknown, or the parent has failed to contact and  
8 visit the minor, the court may schedule a hearing  
9 pursuant to Section 366.26 within 120 days. If the court  
10 finds by clear and convincing evidence that the parent  
11 has been convicted of a felony indicating parental  
12 unfitness, the court may schedule a hearing pursuant to  
13 Section 366.26 within 120 days.

14 If the minor had been placed under court supervision  
15 with a previously noncustodial parent pursuant to Section  
16 361.2, the court shall determine whether supervision is  
17 still necessary. The court may terminate supervision and  
18 transfer permanent custody to that parent, as provided  
19 for by paragraph (1) of subdivision (a) of Section 361.2.

20 In all other cases, the court shall direct that any  
21 reunification services previously ordered shall continue  
22 to be offered to the parent or guardian pursuant to the  
23 time periods set forth in subdivision (a) of Section 361.5,  
24 provided that the court may modify the terms and  
25 conditions of those services.

26 If the minor is not returned to his or her parent or  
27 guardian, the court shall determine whether reasonable  
28 services have been provided or offered to the parent or  
29 guardian which were designed to aid the parent or  
30 guardian in overcoming the problems which led to the  
31 initial removal and the continued custody of the minor.  
32 The court shall order that those services be initiated,  
33 continued, or terminated.

34 (f) At the review hearing held 12 months after the  
35 initial dispositional hearing, the court shall order the  
36 return of the minor to the physical custody of his or her  
37 parent or guardian unless the court finds, by a  
38 preponderance of the evidence, that the return of the  
39 minor to his or her parent or guardian would create a  
40 substantial risk of detriment to the safety, protection, or



1 physical or emotional well-being of the minor. The  
2 probation officer shall have the burden of establishing  
3 that detriment. The failure of the parent or guardian to  
4 participate regularly in court-ordered treatment  
5 programs shall be prima facie evidence that return would  
6 be detrimental. In making its determination, the court  
7 shall review and consider the probation officer's report  
8 and recommendations and the report and  
9 recommendations of any child advocate appointed  
10 pursuant to Section 356.5; shall consider the efforts or  
11 progress, or both, demonstrated by the parent or  
12 guardian and the extent to which he or she availed  
13 himself or herself of services provided; and shall make  
14 appropriate findings pursuant to subdivision (a) of  
15 Section 366. Whether or not the minor is returned to his  
16 or her parent or guardian, the court shall specify the  
17 factual basis for its decision. If the minor is not returned  
18 to a parent or guardian, the court shall specify the factual  
19 basis for its conclusion that the return would be  
20 detrimental. The court also shall make a finding pursuant  
21 to subdivision (a) of Section 366.

22 (g) If the time period in which the court-ordered  
23 services were provided has met or exceeded the time  
24 period set forth in paragraph (1) or (2) of subdivision (a)  
25 of Section 361.5, as appropriate, and a minor is not  
26 returned to the custody of a parent or guardian at the  
27 hearing held pursuant to subdivision (f), the court shall  
28 do one of the following:

29 (1) Continue the case for up to six months for another  
30 review hearing, provided that the hearing shall occur  
31 within 18 months of the date the minor was originally  
32 taken from the physical custody of his or her parent or  
33 guardian. The court shall continue the case only if it finds  
34 that there is a substantial probability that the minor will  
35 be returned to the physical custody of his or her parent  
36 or guardian within six months or that reasonable services  
37 have not been provided to the parent or guardian. The  
38 court shall inform the parent or guardian that if the minor  
39 cannot be returned home by the next review hearing, a  
40 permanent plan shall be developed at that hearing. The



1 court shall not order that a hearing pursuant to Section  
2 366.26 be held unless there is clear and convincing  
3 evidence that reasonable services have been provided or  
4 offered to the parent or guardian.

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

10 (3) Order that a hearing be held within 120 days,  
11 pursuant to Section 366.26, if there is clear and convincing  
12 evidence that reasonable services have been provided or  
13 offered to the parents. Evidence that the minor has been  
14 placed with a foster family that is eligible to adopt a  
15 minor, or has been placed in a preadoptive home, in and  
16 of itself, shall not be deemed a failure to provide or offer  
17 reasonable services.

18 (h) In any case in which the court orders that a hearing  
19 pursuant to Section 366.26 shall be held, it shall also order  
20 the termination of reunification services to the parent.  
21 The court shall continue to permit the parent to visit the  
22 minor pending the hearing unless it finds that visitation  
23 would be detrimental to the minor.

24 (i) Whenever a court orders that a hearing pursuant to  
25 Section 366.26 shall be held, it shall direct the agency  
26 supervising the minor and the licensed county adoption  
27 agency, or the State Department of Social Services when  
28 it is acting as an adoption agency in counties which are not  
29 served by a county adoption agency, to prepare an  
30 assessment which shall include:

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

33 (2) A review of the amount of and nature of any  
34 contact between the minor and his or her parents since  
35 the time of placement.

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

38 (4) A preliminary assessment of the eligibility and  
39 commitment of any identified prospective adoptive  
40 parent or guardian, particularly the caretaker, to include



1 a social history including screening for criminal records  
2 and prior referrals for child abuse or neglect, the  
3 capability to meet the minor's needs, and the  
4 understanding of the legal and financial rights and  
5 responsibilities of adoption and guardianship.

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

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

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

20 (k) This section shall become operative January 1,  
21 1999.

22 ~~SEC. 13.~~

23 *SEC. 14. Section 366.23 of the Welfare and Institutions*  
24 *Code is amended to read:*

25 366.23. (a) Whenever a juvenile court schedules a  
26 hearing pursuant to Section 366.26 regarding a minor, it  
27 shall direct that the fathers, presumed and alleged, and  
28 mother of the minor, the minor, if 10 years of age or older,  
29 and any counsel of record, shall be notified of the time and  
30 place of the proceedings and advised that they may  
31 appear. The notice shall also advise them of the right to  
32 counsel, the nature of the proceedings, and of the  
33 requirement that at the proceedings the court shall select  
34 and implement a plan of adoption, legal guardianship, or  
35 long-term foster care for the minor. In all cases where a  
36 parent has relinquished his or her child for the purpose  
37 of adoption, no notice need be given to that parent.  
38 Service of the notice shall be completed at least 45 days  
39 before the date of the hearing, except in those cases  
40 where notice by publication is ordered in which case the



1 service of the notice shall be completed at least 30 days  
2 before the date of the hearing. If the petitioner is  
3 recommending termination of parental rights, notice of  
4 this recommendation shall be either included in the  
5 notice of a hearing scheduled pursuant to Section 366.26  
6 and served within the time period specified in this  
7 subdivision or provided by separate notice to all persons  
8 entitled to receive notice by first-class mail at least 15 days  
9 before the scheduled hearing.

10 (b) Notice to the parent of the hearing may be given  
11 in any of the following manners:

12 (1) Personal service to the parent named in the notice.

13 (2) Delivery to a competent person who is at least 18  
14 years of age at the parent's usual place of residence or  
15 business, and thereafter mailed to the parent named in  
16 the notice by first-class mail at the place where the notice  
17 was delivered.

18 (3) If the place of residence is outside the state, service  
19 may be made in the manner prescribed in paragraph (1)  
20 or (2), or by certified mail, return receipt requested.

21 (4) If the recommendation of the petitioner is limited  
22 to legal guardianship or long-term foster care, service  
23 may be made by first-class mail to the parent's usual place  
24 of residence or business.

25 (5) If the father or mother of the minor or any person  
26 alleged to be or claiming to be the father or mother  
27 cannot, with reasonable diligence, be served as provided  
28 for in paragraph (1), (2), (3), or (4) or if his or her place  
29 of residence is not known, the probation officer shall file  
30 an affidavit with the court at least 75 days before the date  
31 of the hearing, stating the name of the father or mother  
32 or alleged father or mother and his or her place of  
33 residence, if known, setting forth the efforts that have  
34 been made to locate and serve the parent.

35 (A) If the court determines that there has been due  
36 diligence in attempting to locate and serve the parent,  
37 and the petitioner limits the recommendation to legal  
38 guardianship or long-term foster care, the court shall  
39 order that notice be given to the grandparents of the  
40 minor, if there are any and if their residences and



1 relationships to the minor are known, by first-class mail  
2 of the time and place of the proceedings and that they  
3 may appear. In any case where the residence of the  
4 parent or alleged parent becomes known, notice shall  
5 immediately be served upon the parent or alleged parent  
6 as set forth in paragraph (1), (2), (3), or (4).

7 (B) If the court determines that there has been due  
8 diligence in attempting to locate and serve the parent  
9 and the petitioner does not limit the recommendation to  
10 legal guardianship or long-term foster care, the court  
11 shall order that service to the parent be by certified mail,  
12 return receipt requested, to the parent's counsel of  
13 record, if any. If the parent does not have counsel of  
14 record, the court shall order that the service be made by  
15 publication of a citation requiring the father or mother,  
16 or alleged father or mother, to appear at the time and  
17 place stated in the citation, and that the citation be  
18 published in a newspaper designated as most likely to  
19 give notice to the father or mother. Publication shall be  
20 made once a week for four successive weeks. In case of  
21 service to the parent by certified mail on the counsel of  
22 record or publication where the residence of a parent or  
23 alleged parent becomes known, notice shall immediately  
24 be served upon the parent or alleged parent as set forth  
25 in paragraph (1), (2), or (3). When service to the parent  
26 by certified mail on the counsel of record or publication  
27 is ordered, service of a copy of the notice in the manner  
28 provided for in paragraph (1), (2), or (3) is equivalent to  
29 service by certified mail on the counsel of record or  
30 publication. In any case where service to the parent by  
31 certified mail on the counsel of record or publication is  
32 ordered, the court shall also order that notice be given to  
33 the grandparents of the minor, if there are any and if their  
34 residences and relationships to the minor are known, by  
35 first-class mail of the time and place of the proceedings  
36 and that they may appear.

37 If the identity of one or both of the parents or alleged  
38 parents of the minor is unknown or if the name of either  
39 or both of his or her parents or alleged parents is  
40 uncertain, then that fact shall be set forth in the affidavit



1 and the court, if ordering publication, shall order the  
2 published citation to be directed to either the father or  
3 the mother, or both, of the minor, and to all persons  
4 claiming to be the father or mother of the minor naming  
5 and otherwise describing the minor. Personal service of  
6 a copy of the notice or any other form of actual notice to  
7 counsel of record is the equivalent of service to counsel  
8 of record by certified mail, return receipt requested.

9 (6) Notwithstanding paragraphs (1) to (5), inclusive,  
10 if the parent is present at the hearing at which the court  
11 schedules a hearing pursuant to Section 366.26 regarding  
12 the minor, the court shall advise the parent of the time  
13 and place of the proceedings, their right to counsel, the  
14 nature of the proceedings, and of the requirement that at  
15 the proceedings the court select and implement a plan of  
16 adoption, legal guardianship, or long-term foster care for  
17 the minor. The court shall order the parent to appear for  
18 the proceedings and then direct that the parent be  
19 noticed thereafter by first-class mail to the parent's usual  
20 place of residence or business only.

21 (7) Notwithstanding paragraphs (1) to (5), inclusive,  
22 whenever the whereabouts of a parent is not known at  
23 the time the court schedules a hearing pursuant to  
24 Section 366.26 regarding a minor, and the petitioner  
25 presents to the court an affidavit setting forth the name  
26 of the parent and the efforts that have been made to  
27 locate the parent, the court shall order that the notice for  
28 the parent be as set forth in subparagraph (A) or (B) of  
29 paragraph (5).

30 (c) Notice to the minor, if 10 years of age or older of  
31 the hearing shall be by first-class mail.

32 (d) Service is deemed complete at the time the notice  
33 is personally delivered to the party named in the notice,  
34 or 10 days after the notice has been placed in the mail, or  
35 at the expiration of the time prescribed by the order for  
36 publication, whichever occurs first. Notwithstanding  
37 subdivision (a), if the counsel of record is present at the  
38 time that the court schedules a hearing pursuant to  
39 Section 366.26 no further notice to the counsel of record  
40 shall be required, except to notice counsel of a



1 recommendation to termination parental rights as set  
2 forth in subdivision (a) or as required by subparagraph  
3 (B) of paragraph (5) of subdivision (b).

4 *(e) Notwithstanding subdivisions (a) and (b), the*  
5 *juvenile court shall order that no notice of the hearing*  
6 *under Section 366.26 be provided to all of the following:*

7 *(1) An alleged father who has been served as provided*  
8 *in Section 316.2 and who has failed both to appear in the*  
9 *dependency proceedings and to bring an action to*  
10 *declare the parent and child relationship under Section*  
11 *7630 or 7631 of the Family Code.*

12 *(2) An alleged biological or statutorily presumed*  
13 *father who has denied paternity and has executed Section*  
14 *1 of Judicial Council form Paternity-Waiver of Rights*  
15 *(JV-505) waiving notice of further hearings.*

16 *(3) An alleged, biological or statutorily presumed*  
17 *father who has relinquished the child to the department*  
18 *or to a licensed adoption agency for adoption, and the*  
19 *relinquishment has been accepted and filed with notice*  
20 *as required under Section 8700 of the Family Code.*

21 *(4) An alleged father whose identity or name is*  
22 *uncertain, and the court finds by clear and convincing*  
23 *evidence that there has been due diligence in attempting*  
24 *to identify and locate him.*

25 *(5) An alleged father whose whereabouts are*  
26 *unknown, and the court finds by clear and convincing*  
27 *evidence that there has been due diligence in attempting*  
28 *to locate him.*

29 *SEC. 15.* Section 16501.1 of the Welfare and  
30 Institutions Code is amended to read:

31 16501.1. (a) The Legislature finds and declares that  
32 the foundation and central unifying tool in child welfare  
33 services is the case plan.

34 (b) The Legislature further finds and declares that a  
35 case plan ensures that the child receives protection and  
36 proper case management, and that services are provided  
37 to the parents or other caretakers as appropriate. A case  
38 plan shall be based upon the principles of this section and  
39 shall document that a preplacement assessment of the  
40 service needs of the child and family, and preplacement



1 preventive services, have been provided, and that  
2 reasonable efforts to prevent out-of-home placement  
3 have been made.

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

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

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

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

31 (1) The case plan shall be based upon an assessment of  
32 the circumstances which required child welfare services  
33 intervention.

34 (2) The case plan shall identify specific goals, and the  
35 appropriateness of the planned services in meeting those  
36 goals.

37 (3) The case plan shall identify the original allegations  
38 of abuse or neglect, as defined in Article 2.5 (commencing  
39 with Section 11164) of Chapter 2 of Title 1 of Part 4 of the  
40 Penal Code, or the conditions cited as the basis for



1 declaring the child a dependent of the court pursuant to  
2 Section 300, or all of these, and the other precipitating  
3 incidents which led to child welfare services intervention.

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

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

15 (6) When out-of-home placement is made, the case  
16 plan shall include documentation of the provisions  
17 specified in subdivisions (b), (c), and (d) of Section  
18 16002.

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

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

34 (9) (A) Parents and legal guardians shall have an  
35 opportunity to review the case plan, sign it whenever  
36 possible, and then shall receive a copy of the plan. In any  
37 voluntary service or placement agreement, the parents  
38 or legal guardians shall be required to review and sign the  
39 case plan. Whenever possible, parents and legal



1 guardians shall participate in the development of the case  
2 plan.

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

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

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

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

37 ~~SEC. 14.~~

38 *SEC. 16.* Notwithstanding Section 17610 of the  
39 Government Code, if the Commission on State Mandates  
40 determines that this act contains costs mandated by the



1 state, reimbursement to local agencies and school  
2 districts for those costs shall be made pursuant to Part 7  
3 (commencing with Section 17500) of Division 4 of Title  
4 2 of the Government Code. If the statewide cost of the  
5 claim for reimbursement does not exceed one million  
6 dollars (\$1,000,000), reimbursement shall be made from  
7 the State Mandates Claims Fund.

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

O

