

AMENDED IN ASSEMBLY JUNE 24, 1998

AMENDED IN SENATE MAY 19, 1998

AMENDED IN SENATE MAY 4, 1998

AMENDED IN SENATE APRIL 2, 1998

**SENATE BILL**

**No. 1482**

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**Introduced by Senator Rosenthal**

February 3, 1998

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An act to amend Section 366.3 of the Welfare and Institutions Code, relating to adoption.

LEGISLATIVE COUNSEL'S DIGEST

SB 1482, as amended, Rosenthal. Adoption: dependent children.

Existing law provides for the placement of children who have been adjudged dependent children of the juvenile court on the basis of abuse or neglect in long-term foster care. Existing law also authorizes a court to terminate parental rights with regard to a dependent child of the court and to order the child placed for adoption, under certain conditions.

Existing law requires that the status of a child be reviewed every 6 months when the child is in a placement other than the home of a legal guardian and the jurisdiction of the court over the child has not been dismissed. This review may be conducted by either the juvenile court or an appropriate local agency. However, under specified conditions, that review must be conducted by a court.

This bill would instead provide that this review shall be conducted at least every 6 months. The bill would generally permit the review of the status of a child to be conducted by either the court or an appropriate local agency with regard to the status of a child placed in long-term foster care. However, the bill would require that the review of the status of a child in long-term foster care be conducted by the court, under certain conditions. The bill would also require that the review of the status of a child be conducted by the court if the court has terminated parental rights and has ordered that the child be placed for adoption. In those cases, the bill would require that the county welfare department prepare and present to the court a report containing specified information concerning the child. By imposing additional duties on local employees, the bill 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 366.3 of the Welfare and  
2 Institutions Code is amended to read:  
3 366.3. (a) If a juvenile court orders a permanent plan  
4 of adoption or legal guardianship pursuant to Section 360,  
5 366.25, or 366.26, the court shall retain jurisdiction over  
6 the child until the child is adopted or the legal  
7 guardianship is established. The status of the child shall be  
8 reviewed every six months to ensure that the adoption or



1 guardianship is completed as expeditiously as possible.  
2 When the adoption of the child has been granted, the  
3 court shall terminate its jurisdiction over the child. The  
4 court may continue jurisdiction over the child as a  
5 dependent child of the juvenile court following the  
6 establishment of a legal guardianship or may terminate its  
7 dependency jurisdiction and retain jurisdiction over the  
8 child as a ward of the guardianship established pursuant  
9 to Section 360, 366.25, or 366.26 and as authorized by  
10 Section 366.4. Following a termination of parental rights  
11 the parent or parents shall not be a party to, or receive  
12 notice of, any subsequent proceedings regarding the  
13 child.

14 (b) If the court has dismissed dependency jurisdiction  
15 following the establishment of a legal guardianship, or no  
16 dependency jurisdiction attached because of the granting  
17 of a legal guardianship pursuant to Section 360, and the  
18 legal guardianship is subsequently revoked or otherwise  
19 terminated, the county department of social services or  
20 welfare department shall notify the juvenile court of this  
21 fact. The court may vacate its previous order dismissing  
22 dependency jurisdiction over the child.

23 Notwithstanding Section 1601 of the Probate Code, the  
24 proceedings to terminate a guardianship which has been  
25 granted pursuant to Section 360, 366.25, or 366.26 shall be  
26 held in the juvenile court, unless the termination is due  
27 to the emancipation or adoption of the child. If the  
28 petition to terminate guardianship is granted, the  
29 juvenile court may resume dependency jurisdiction over  
30 the child, and may order the county department of social  
31 services or welfare department to develop a new  
32 permanent plan, which shall be presented to the court  
33 within 60 days of the termination. If no dependency  
34 jurisdiction has attached, the probation officer shall make  
35 any investigation he or she deems necessary to determine  
36 whether the child may be within the jurisdiction of the  
37 juvenile court, as provided in Section 328.

38 Unless the parental rights of the child's parent or  
39 parents have been terminated, they shall be notified that  
40 the guardianship has been revoked or terminated and



1 shall be entitled to participate in the new permanency  
2 planning hearing. The court shall try to place the child in  
3 another permanent placement. At the hearing, the  
4 parents may be considered as custodians but the child  
5 shall not be returned to the parent or parents unless they  
6 prove, by a preponderance of the evidence, that  
7 reunification is the best alternative for the child. The  
8 court may, if it is in the interests of the child, order that  
9 reunification services again be provided to the parent or  
10 parents.

11 (c) If, following the establishment of a legal  
12 guardianship, the county welfare department or  
13 probation department becomes aware of changed  
14 circumstances that indicate adoption may be an  
15 appropriate plan for the child, the department shall so  
16 notify the court. The court may vacate its previous order  
17 dismissing dependency jurisdiction over the child and  
18 order that a hearing be held pursuant to Section 366.26 to  
19 determine whether adoption or continued guardianship  
20 is the most appropriate plan for the child. The hearing  
21 shall be held no later than 120 days from the date of the  
22 order. Whenever the court orders that a hearing shall be  
23 held pursuant to Section 366.26, the court shall direct the  
24 agency supervising the child and the licensed county  
25 adoption agency, or the State Department of Social  
26 Services when it is acting as an adoption agency in  
27 counties that are not served by a county adoption agency,  
28 to prepare an assessment under subdivision (b) of Section  
29 366.22.

30 (d) If the child is in a placement other than the home  
31 of a legal guardian and jurisdiction has not been  
32 terminated, the status of the child shall be reviewed at  
33 least every six months. The review of the status of a child  
34 for whom the court has ordered parental rights  
35 terminated and who has been ordered placed for  
36 adoption shall be conducted by the court. The review of  
37 the status of a child for whom the court has not ordered  
38 parental rights terminated and who has not been ordered  
39 placed for adoption may be conducted by the court or an



1 appropriate local agency. However, the court shall  
2 conduct the review under the following circumstances:

3 (1) Upon the request of the child's parents or  
4 guardians.

5 (2) Upon the request of the child.

6 (3) It has been 12 months since a hearing held  
7 pursuant to Section 366.26 or an order that the child  
8 remain in long-term foster care pursuant to Section  
9 366.21, 366.22, or 366.26, or subdivision (g).

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

12 (e) Except as provided in subdivision (f), at the review  
13 held *at least* every six months pursuant to subdivision (d),  
14 the reviewing body shall inquire about the progress being  
15 made to provide a permanent home for the child and shall  
16 determine all of the following:

17 (1) The appropriateness of the placement.

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

20 (3) The extent of compliance with the child welfare  
21 services case plan.

22 (4) The adequacy of services provided to the child.  
23 The review shall also include a determination of the  
24 services needed to assist a child who is 16 years of age or  
25 older make the transition from foster care to independent  
26 living.

27 Each licensed foster family agency shall submit reports  
28 for each child in its care, custody, and control to the court  
29 concerning the continuing appropriateness and extent of  
30 compliance with the child's permanent plan, the extent  
31 of compliance with the case plan, and the type and  
32 adequacy of services provided to the child.

33 Unless their parental rights have been permanently  
34 terminated, the parent or parents of the child are entitled  
35 to receive notice of, and participate in, those hearings. It  
36 shall be presumed that continued care is in the interests  
37 of the child, unless the parent or parents prove, by a  
38 preponderance of the evidence, that further efforts at  
39 reunification are the best alternative for the child. In  
40 those cases, the court may order that further reunification



1 services be provided to the parent or parents for a period  
2 not to exceed six months.

3 (f) At the review conducted by the court and held at  
4 least every six months, regarding a child for whom the  
5 court has ordered parental rights terminated and who has  
6 been ordered placed for adoption, the county welfare  
7 department shall prepare and present to the court a  
8 report describing the following:

9 (1) The child's present placement.

10 (2) The child's current physical, mental, emotional,  
11 and educational status.

12 (3) Whether the child has been placed with a  
13 prospective adoptive parent or parents.

14 (4) Whether an adoptive placement agreement has  
15 been signed and filed.

16 (5) The progress of the search for an adoptive  
17 placement if one has not been identified.

18 (6) Any impediments to the adoption or the adoptive  
19 placement.

20 (7) The anticipated date by which the child will be  
21 adopted, or placed in an adoptive home.

22 (8) The anticipated date by which an adoptive  
23 placement agreement will be signed.

24 (9) Recommendations for court orders that will assist  
25 in the placement of the child for adoption or in the  
26 finalization of the adoption.

27 The court shall make appropriate orders to protect the  
28 stability of the child and to facilitate and expedite the  
29 permanent placement and adoption of the child.

30 (g) At the review held for a child in long-term foster  
31 placement and for whom 12 months have elapsed since  
32 a hearing at which the child was ordered into long-term  
33 foster care, the court shall consider all permanency  
34 planning options for the child including whether the  
35 child should be returned to the home of the parent,  
36 placed for adoption, or appointed a legal guardian, or  
37 whether the child should remain in foster care. The court  
38 shall order that a hearing be held pursuant to Section  
39 366.26 unless it determines by clear and convincing  
40 evidence that the child is not a proper subject for



1 adoption or that there is no one willing to accept legal  
2 guardianship. Only upon that determination may the  
3 court order that the child remain in long-term foster care,  
4 without holding a hearing pursuant to Section 366.26.

5 (h) If, as authorized by subdivision (g), the court  
6 orders a hearing pursuant to Section 366.26, the court  
7 shall direct the agency supervising the child and the  
8 licensed county adoption agency, or the department  
9 when it is acting as an adoption agency in counties that  
10 are not served by a county adoption agency, to prepare  
11 an assessment as provided for in subdivision (i) of Section  
12 366.21 or subdivision (b) of Section 366.22. A hearing held  
13 pursuant to Section 366.26 shall be held no later than 120  
14 days from the date of the 12-month review at which it is  
15 ordered, and at that hearing the court shall determine  
16 whether adoption, guardianship, or long-term foster care  
17 is the most appropriate plan for the child.

18 SEC. 2. Notwithstanding Section 17610 of the  
19 Government Code, if the Commission on State Mandates  
20 determines that this act contains costs mandated by the  
21 state, reimbursement to local agencies and school  
22 districts for those costs shall be made pursuant to Part 7  
23 (commencing with Section 17500) of Division 4 of Title  
24 2 of the Government Code. If the statewide cost of the  
25 claim for reimbursement does not exceed one million  
26 dollars (\$1,000,000), reimbursement shall be made from  
27 the State Mandates Claims Fund.

28 Notwithstanding Section 17580 of the Government  
29 Code, unless otherwise specified, the provisions of this act  
30 shall become operative on the same date that the act  
31 takes effect pursuant to the California Constitution.

