

AMENDED IN ASSEMBLY APRIL 7, 2005

CALIFORNIA LEGISLATURE—2005—06 REGULAR SESSION

ASSEMBLY BILL

No. 1412

Introduced by Assembly Member Leno

February 22, 2005

An act to amend Sections 366, 366.1, 366.21, 366.22, 366.26, 366.3, *16001.9*, *16500.1*, and 16501.1 of the Welfare and Institutions Code, relating to dependent children.

LEGISLATIVE COUNSEL'S DIGEST

AB 1412, as amended, Leno. Dependent children: out-of-home placements.

(1) Existing law requires the juvenile court to conduct periodic status review hearings, and, in certain cases, to terminate the parental rights to, and to order a permanent plan of adoption or legal guardianship for, a dependent child of the juvenile court. Existing law also requires social workers to prepare various reports, including a case plan, regarding the child in connection with these hearings, and to make efforts to maintain relationships between the child and specified individuals who are important to the child. Several of these provisions apply specifically to a child who is 10 years of age or older who is placed in a group home for 6 months or longer from the date the child entered foster care.

This bill would revise those provisions to apply to a child who is 10 years of age or older and who has been in an out-of-home placement. By expanding the class of children to whom these provisions would apply, the bill would impose additional duties on social workers, thereby imposing a state-mandated local program.

(2) Existing law establishes the rights of children in foster care. Existing law establishes a statewide system of child welfare services and states the intent of the Legislature in this regard.

This bill would state the right of a child in foster care to be involved in the development of his or her own case plan and plan for permanent placement. The bill would revise the age a child in foster care has a right to review his or her case plan to 12 years of age or older. The bill would make further statements of legislative intent in connection with the statewide system of child welfare services. The bill would provide that a child be given the opportunity to participate in the development of a case plan, and that a child 12 years of age or older shall be able to review the case plan, sign it, and receive a copy of it. The bill would also make a statement of legislative findings regarding a child's input in his or her case plan.

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

This bill would provide that, 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. The Legislature finds and declares that a child's
2 input in his or her case plan is valuable and necessary to
3 developing a plan that best meets the child's unique needs.

4 ~~SECTION 1.~~

5 SEC. 2. Section 366 of the Welfare and Institutions Code is
6 amended to read:

7 366. (a) (1) The status of every dependent child in foster
8 care shall be reviewed periodically as determined by the court
9 but no less frequently than once every six months, as calculated
10 from the date of the original dispositional hearing, until the
11 hearing described in Section 366.26 is completed. The court shall
12 consider the safety of the child and shall determine all of the
13 following:

1 (A) The continuing necessity for and appropriateness of the
2 placement.

3 (B) The extent of the agency's compliance with the case plan
4 in making reasonable efforts to return the child to a safe home
5 and to complete any steps necessary to finalize the permanent
6 placement of the child, including efforts to maintain relationships
7 between a child who is 10 years of age or older and who has been
8 in an out-of-home placement for six months or longer, and
9 individuals other than the child's siblings who are important to
10 the child, consistent with the child's best interests.

11 (C) Whether there should be any limitation on the right of the
12 parent or guardian to make educational decisions for the child.
13 That limitation shall be specifically addressed in the court order
14 and may not exceed those necessary to protect the child.
15 Whenever the court specifically limits the right of the parent or
16 guardian to make educational decisions for the child, the court
17 shall at the same time appoint a responsible adult to make
18 educational decisions for the child pursuant to Section 361.

19 (D) (i) Whether the child has other siblings under the court's
20 jurisdiction, and, if any siblings exist, all of the following:

21 (I) The nature of the relationship between the child and his or
22 her siblings.

23 (II) The appropriateness of developing or maintaining the
24 sibling relationships pursuant to Section 16002.

25 (III) If the siblings are not placed together in the same home,
26 why the siblings are not placed together and what efforts are
27 being made to place the siblings together, or why those efforts
28 are not appropriate.

29 (IV) If the siblings are not placed together, the frequency and
30 nature of the visits between siblings.

31 (V) The impact of the sibling relationships on the child's
32 placement and planning for legal permanence.

33 (VI) The continuing need to suspend sibling interaction, if
34 applicable, pursuant to subdivision (c) of Section 16002.

35 (ii) The factors the court may consider in making a
36 determination regarding the nature of the child's sibling
37 relationships may include, but are not limited to, whether the
38 siblings were raised together in the same home, whether the
39 siblings have shared significant common experiences or have
40 existing close and strong bonds, whether either sibling expresses

1 a desire to visit or live with his or her sibling, as applicable, and
2 whether ongoing contact is in the child's best emotional interests.

3 (E) The extent of progress which has been made toward
4 alleviating or mitigating the causes necessitating placement in
5 foster care.

6 (2) The court shall project a likely date by which the child may
7 be returned to and safely maintained in the home or placed for
8 adoption, legal guardianship, or in another planned permanent
9 living arrangement.

10 (b) Subsequent to the hearing, periodic reviews of each child
11 in foster care shall be conducted pursuant to the requirements of
12 Sections 366.3 and 16503.

13 (c) If the child has been placed out of state, each review
14 described in subdivision (a) and any reviews conducted pursuant
15 to Sections 366.3 and 16503 shall also address whether the
16 out-of-state placement continues to be the most appropriate
17 placement selection and in the best interests of the child.

18 (d) A child may not be placed in an out-of-state group home,
19 or remain in an out-of-state group home, unless the group home
20 is in compliance with Section 7911.1 of the Family Code.

21 ~~SEC. 2.~~

22 *SEC. 3.* Section 366.1 of the Welfare and Institutions Code is
23 amended to read:

24 366.1. Each supplemental report required to be filed pursuant
25 to Section 366 shall include, but not be limited to, a factual
26 discussion of each of the following subjects:

27 (a) Whether the county welfare department social worker has
28 considered child protective services, as defined in Chapter 5
29 (commencing with Section 16500) of Part 4 of Division 9, as a
30 possible solution to the problems at hand, and has offered those
31 services to qualified parents, if appropriate under the
32 circumstances.

33 (b) What plan, if any, for the return and maintenance of the
34 child in a safe home is recommended to the court by the county
35 welfare department social worker.

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

1 (d) What actions, if any, have been taken by the parent to
2 correct the problems that caused the child to be made a
3 dependent child of the court.

4 (e) If the parent or guardian is unwilling or unable to
5 participate in making an educational decision for his or her child,
6 or if other circumstances exist that compromise the ability of the
7 parent or guardian to make educational decisions for the child,
8 the county welfare department or social worker shall consider
9 whether the right of the parent or guardian to make educational
10 decisions for the child should be limited. If the supplemental
11 report makes that recommendation, the report shall identify
12 whether there is a responsible adult available to make educational
13 decisions for the child pursuant to Section 361.

14 (f) (1) Whether the child has any siblings under the court's
15 jurisdiction, and, if any siblings exist, all of the following:

16 (A) The nature of the relationship between the child and his or
17 her siblings.

18 (B) The appropriateness of developing or maintaining the
19 sibling relationships pursuant to Section 16002.

20 (C) If the siblings are not placed together in the same home,
21 why the siblings are not placed together and what efforts are
22 being made to place the siblings together, or why those efforts
23 are not appropriate.

24 (D) If the siblings are not placed together, the frequency and
25 nature of the visits between siblings.

26 (E) The impact of the sibling relationships on the child's
27 placement and planning for legal permanence.

28 (2) The factual discussion shall include a discussion of
29 indicators of the nature of the child's sibling relationships,
30 including, but not limited to, whether the siblings were raised
31 together in the same home, whether the siblings have shared
32 significant common experiences or have existing close and
33 strong bonds, whether either sibling expresses a desire to visit or
34 live with his or her sibling, as applicable, and whether ongoing
35 contact is in the child's best emotional interests.

36 (g) Whether a child who is 10 years of age or older and who
37 has been in an out-of-home placement for six months or longer
38 has relationships with individuals other than the child's siblings
39 that are important to the child, consistent with the child's best
40 interests, and actions taken to maintain those relationships. The

1 social worker shall ask every child who is 10 years of age or
2 older and who has been in an out-of-home placement for six
3 months or longer to identify any individuals other than the
4 child's siblings who are important to the child, consistent with
5 the child's best interest. The social worker may ask any other
6 child to provide that information, as appropriate.

7 ~~SEC. 3.~~

8 *SEC. 4.* Section 366.21 of the Welfare and Institutions Code
9 is amended to read:

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

15 (b) Except as provided in Sections 294 and 295, notice of the
16 hearing shall be provided pursuant to Section 293.

17 (c) At least 10 calendar days prior to the hearing, the social
18 worker shall file a supplemental report with the court regarding
19 the services provided or offered to the parent or legal guardian to
20 enable him or her to assume custody and the efforts made to
21 achieve legal permanence for the child if efforts to reunify fail,
22 including, but not limited to, efforts to maintain relationships
23 between a child who is 10 years of age or older and has been in
24 out-of-home placement for six months or longer and individuals
25 who are important to the child, consistent with the child's best
26 interests; the progress made; and, where relevant, the prognosis
27 for return of the child to the physical custody of his or her parent
28 or legal guardian; and shall make his or her recommendation for
29 disposition. If the child is a member of a sibling group described
30 in paragraph (3) of subdivision (a) of Section 361.5, the report
31 and recommendation may also take into account those factors
32 described in subdivision (e) relating to the child's sibling group.
33 If the recommendation is not to return the child to a parent or
34 legal guardian, the report shall specify why the return of the child
35 would be detrimental to the child. The social worker shall
36 provide the parent or legal guardian, counsel for the child, and
37 any court-appointed child advocate with a copy of the report,
38 including his or her recommendation for disposition, at least 10
39 calendar days prior to the hearing. In the case of a child removed
40 from the physical custody of his or her parent or legal guardian,

1 the social worker shall, at least 10 calendar days prior to the
2 hearing, provide a summary of his or her recommendation for
3 disposition to any foster parents, relative caregivers, and certified
4 foster parents who have been approved for adoption by the State
5 Department of Social Services when it is acting as an adoption
6 agency in counties that are not served by a county adoption
7 agency or by a licensed county adoption agency, community care
8 facility, or foster family agency having the physical custody of
9 the child.

10 (d) Prior to any hearing involving a child in the physical
11 custody of a community care facility or a foster family agency
12 that may result in the return of the child to the physical custody
13 of his or her parent or legal guardian, or in adoption or the
14 creation of a legal guardianship, the facility or agency shall file
15 with the court a report containing its recommendation for
16 disposition. Prior to the hearing involving a child in the physical
17 custody of a foster parent, a relative caregiver, or a certified
18 foster parent who has been approved for adoption by the State
19 Department of Social Services when it is acting as an adoption
20 agency or by a licensed adoption agency, the foster parent,
21 relative caregiver, or the certified foster parent who has been
22 approved for adoption by the State Department of Social Services
23 when it is acting as an adoption agency in counties that are not
24 served by a county adoption agency or by a licensed county
25 adoption agency, may file with the court a report containing his
26 or her recommendation for disposition. The court shall consider
27 the report and recommendation filed pursuant to this subdivision
28 prior to determining any disposition.

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

1 worker's report and recommendations and the report and
2 recommendations of any child advocate appointed pursuant to
3 Section 356.5; and shall consider the efforts or progress, or both,
4 demonstrated by the parent or legal guardian and the extent to
5 which he or she availed himself or herself to services provided.

6 Whether or not the child is returned to a parent or legal
7 guardian, the court shall specify the factual basis for its
8 conclusion that the return would be detrimental or would not be
9 detrimental. The court also shall make appropriate findings
10 pursuant to subdivision (a) of Section 366; and, where relevant,
11 shall order any additional services reasonably believed to
12 facilitate the return of the child to the custody of his or her parent
13 or legal guardian. The court shall also inform the parent or legal
14 guardian that if the child cannot be returned home by the
15 12-month permanency hearing, a proceeding pursuant to Section
16 366.26 may be instituted. This section does not apply in a case
17 where, pursuant to Section 361.5, the court has ordered that
18 reunification services shall not be provided.

19 If the child was under the age of three years on the date of the
20 initial removal, or is a member of a sibling group described in
21 paragraph (3) of subdivision (a) of Section 361.5, and the court
22 finds by clear and convincing evidence that the parent failed to
23 participate regularly and make substantive progress in a
24 court-ordered treatment plan, the court may schedule a hearing
25 pursuant to Section 366.26 within 120 days. If, however, the
26 court finds there is a substantial probability that the child, who
27 was under the age of three years on the date of initial removal or
28 is a member of a sibling group described in paragraph (3) of
29 subdivision (a) of Section 361.5, may be returned to his or her
30 parent or legal guardian within six months or that reasonable
31 services have not been provided, the court shall continue the case
32 to the 12-month permanency hearing.

33 For the purpose of placing and maintaining a sibling group
34 together in a permanent home, the court, in making its
35 determination to schedule a hearing pursuant to Section 366.26
36 for some or all members of a sibling group, as described in
37 paragraph (3) of subdivision (a) of Section 361.5, shall review
38 and consider the social worker's report and recommendations.
39 Factors the report shall address, and the court shall consider, may
40 include, but need not be limited to, whether the sibling group was

1 removed from parental care as a group, the closeness and
2 strength of the sibling bond, the ages of the siblings, the
3 appropriateness of maintaining the sibling group together, the
4 detriment to the child if sibling ties are not maintained, the
5 likelihood of finding a permanent home for the sibling group,
6 whether the sibling group is currently placed together in a
7 preadoptive home or has a concurrent plan goal of legal
8 permanency in the same home, the wishes of each child whose
9 age and physical and emotional condition permits a meaningful
10 response, and the best interest of each child in the sibling group.
11 The court shall specify the factual basis for its finding that it is in
12 the best interest of each child to schedule a hearing pursuant to
13 Section 366.26 in 120 days for some or all of the members of the
14 sibling group.

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

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

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

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

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

3 (f) The permanency hearing shall be held no later than 12
4 months after the date the child entered foster care, as that date is
5 determined pursuant to subdivision (a) of Section 361.5. At the
6 permanency hearing, the court shall determine the permanent
7 plan for the child, which shall include a determination of whether
8 the child will be returned to the child's home and, if so, when,
9 within the time limits of subdivision (a) of Section 361.5. The
10 court shall order the return of the child to the physical custody of
11 his or her parent or legal guardian unless the court finds, by a
12 preponderance of the evidence, that the return of the child to his
13 or her parent or legal guardian would create a substantial risk of
14 detriment to the safety, protection, or physical or emotional
15 well-being of the child. The social worker shall have the burden
16 of establishing that detriment. The court shall also determine
17 whether reasonable services that were designed to aid the parent
18 or legal guardian to overcome the problems that led to the initial
19 removal and continued custody of the child have been provided
20 or offered to the parent or legal guardian. For each youth 16
21 years of age and older, the court shall also determine whether
22 services have been made available to assist him or her in making
23 the transition from foster care to independent living. The failure
24 of the parent or legal guardian to participate regularly and make
25 substantive progress in court-ordered treatment programs shall be
26 prima facie evidence that return would be detrimental. In making
27 its determination, the court shall review and consider the social
28 worker's report and recommendations and the report and
29 recommendations of any child advocate appointed pursuant to
30 Section 356.5, shall consider the efforts or progress, or both,
31 demonstrated by the parent or legal guardian and the extent to
32 which he or she availed himself or herself of services provided,
33 and shall make appropriate findings pursuant to subdivision (a)
34 of Section 366.

35 Whether or not the child is returned to his or her parent or legal
36 guardian, the court shall specify the factual basis for its decision.
37 If the child is not returned to a parent or legal guardian, the court
38 shall specify the factual basis for its conclusion that the return
39 would be detrimental. The court also shall make a finding
40 pursuant to subdivision (a) of Section 366.

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

7 (1) Continue the case for up to six months for a permanency
8 review hearing, provided that the hearing shall occur within 18
9 months of the date the child was originally taken from the
10 physical custody of his or her parent or legal guardian. The court
11 shall continue the case only if it finds that there is a substantial
12 probability that the child will be returned to the physical custody
13 of his or her parent or legal guardian and safely maintained in the
14 home within the extended period of time or that reasonable
15 services have not been provided to the parent or legal guardian.
16 For the purposes of this section, in order to find a substantial
17 probability that the child will be returned to the physical custody
18 of his or her parent or legal guardian and safely maintained in the
19 home within the extended period of time, the court shall be
20 required to find all of the following:

21 (A) That the parent or legal guardian has consistently and
22 regularly contacted and visited with the child.

23 (B) That the parent or legal guardian has made significant
24 progress in resolving problems that led to the child's removal
25 from the home.

26 (C) The parent or legal guardian has demonstrated the capacity
27 and ability both to complete the objectives of his or her treatment
28 plan and to provide for the child's safety, protection, physical
29 and emotional well-being, and special needs.

30 For purposes of this subdivision, the court's decision to
31 continue the case based on a finding or substantial probability
32 that the child will be returned to the physical custody of his or
33 her parent or legal guardian is a compelling reason for
34 determining that a hearing held pursuant to Section 366.26 is not
35 in the best interests of the child.

36 The court shall inform the parent or legal guardian that if the
37 child cannot be returned home by the next permanency review
38 hearing, a proceeding pursuant to Section 366.26 may be
39 instituted. The court may not order that a hearing pursuant to
40 Section 366.26 be held unless there is clear and convincing

1 evidence that reasonable services have been provided or offered
2 to the parent or legal guardian.

3 (2) Order that a hearing be held within 120 days, pursuant to
4 Section 366.26, but only if the court does not continue the case to
5 the permanency planning review hearing and there is clear and
6 convincing evidence that reasonable services have been provided
7 or offered to the parents or legal guardians.

8 (3) Order that the child remain in long-term foster care, but
9 only if the court finds by clear and convincing evidence, based
10 upon the evidence already presented to it, including a
11 recommendation by the State Department of Social Services
12 when it is acting as an adoption agency in counties that are not
13 served by a county adoption agency or by a licensed county
14 adoption agency, that there is a compelling reason for
15 determining that a hearing held pursuant to Section 366.26 is not
16 in the best interest of the child because the child is not a proper
17 subject for adoption and has no one willing to accept legal
18 guardianship. For purposes of this section, a recommendation by
19 the State Department of Social Services when it is acting as an
20 adoption agency in counties that are not served by a county
21 adoption agency or by a licensed county adoption agency that
22 adoption is not in the best interest of the child shall constitute a
23 compelling reason for the court's determination. That
24 recommendation shall be based on the present circumstances of
25 the child and may not preclude a different recommendation at a
26 later date if the child's circumstances change.

27 If the court orders that a child who is 10 years of age or older
28 remain in long-term foster care, the court shall determine
29 whether the agency has made reasonable efforts to maintain the
30 child's relationships with individuals other than the child's
31 siblings who are important to the child, consistent with the
32 child's best interests, and may make any appropriate order to
33 ensure that those relationships are maintained.

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

1 relationships with individuals, other than the child's siblings,
2 who are important to the child, consistent with the child's best
3 interests.

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

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

12 (2) A review of the amount of and nature of any contact
13 between the child and his or her parents or legal guardians and
14 other members of his or her extended family since the time of
15 placement. Although the extended family of each child shall be
16 reviewed on a case-by-case basis, "extended family" for the
17 purpose of this paragraph shall include, but not be limited to, the
18 child's siblings, grandparents, aunts, and uncles.

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

21 (4) A preliminary assessment of the eligibility and
22 commitment of any identified prospective adoptive parent or
23 legal guardian, particularly the caretaker, to include a social
24 history including screening for criminal records and prior
25 referrals for child abuse or neglect, the capability to meet the
26 child's needs, and the understanding of the legal and financial
27 rights and responsibilities of adoption and guardianship. If a
28 proposed guardian is a relative of the minor, and the relative was
29 assessed for foster care placement of the minor prior to January
30 1, 1998, the assessment shall also consider, but need not be
31 limited to, all of the factors specified in subdivision (a) of
32 Section 361.3.

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

(6) A description of efforts to be made to identify a prospective adoptive parent or legal guardian, including, but not limited to, child specific recruitment and listing on an adoption exchange.

(7) An analysis of the likelihood that the child will be adopted if parental rights are terminated.

(j) If, at any hearing held pursuant to Section 366.26, a guardianship is established for the minor with a relative, and juvenile court dependency is subsequently dismissed, the relative shall be eligible for aid under the Kin-GAP program as provided in Article 4.5 (commencing with Section 11360) of Chapter 2 of Part 3 of Division 9.

(k) As used in this section, “relative” means an adult who is related to the minor by blood, adoption, or affinity within the fifth degree of kinship, including stepparents, stepsiblings, and all relatives whose status is preceded by the words “great,” “great-great,” or “grand,” or the spouse of any of those persons even if the marriage was terminated by death or dissolution.

(l) For purposes of this section, evidence of any of the following circumstances may not, in and of itself, be deemed a failure to provide or offer reasonable services:

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

(2) The case plan includes services to make and finalize a permanent placement for the child if efforts to reunify fail.

(3) Services to make and finalize a permanent placement for the child, if efforts to reunify fail, are provided concurrently with services to reunify the family.

~~SEC. 4.~~

SEC. 5. Section 366.22 of the Welfare and Institutions Code is amended to read:

366.22. (a) When a case has been continued pursuant to paragraph (1) of subdivision (g) of Section 366.21, the permanency review hearing shall occur within 18 months after the date the child was originally removed from the physical custody of his or her parent or legal guardian. The court shall order the return of the child to the physical custody of his or her parent or legal guardian unless the court finds, by a preponderance of the evidence, that the return of the child to his

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

16 Whether or not the child is returned to his or her parent or legal
17 guardian, the court shall specify the factual basis for its decision.
18 If the child is not returned to a parent or legal guardian, the court
19 shall specify the factual basis for its conclusion that return would
20 be detrimental.

21 If the child is not returned to a parent or legal guardian at the
22 permanency review hearing, the court shall order that a hearing
23 be held pursuant to Section 366.26 in order to determine whether
24 adoption, guardianship, or long-term foster care is the most
25 appropriate plan for the child. However, if the court finds by
26 clear and convincing evidence, based on the evidence already
27 presented to it, including a recommendation by the State
28 Department of Social Services when it is acting as an adoption
29 agency in counties that are not served by a county adoption
30 agency or by a licensed county adoption agency, that there is a
31 compelling reason, as described in paragraph (2) of subdivision
32 (g) of Section 366.21, for determining that a hearing held under
33 Section 366.26 is not in the best interest of the child because the
34 child is not a proper subject for adoption and has no one willing
35 to accept legal guardianship, then the court may, only under these
36 circumstances, order that the child remain in foster care. If the
37 court orders that a child who is 10 years of age or older remain in
38 long-term foster care, the court shall determine whether the
39 agency has made reasonable efforts to maintain the child's
40 relationships with individuals other than the child's siblings who

1 are important to the child, consistent with the child's best
2 interests, and may make any appropriate order to ensure that
3 those relationships are maintained. The hearing shall be held no
4 later than 120 days from the date of the permanency review
5 hearing. The court shall also order termination of reunification
6 services to the parent or legal guardian. The court shall continue
7 to permit the parent or legal guardian to visit the child unless it
8 finds that visitation would be detrimental to the child. The court
9 shall determine whether reasonable services have been offered or
10 provided to the parent or legal guardian. For purposes of this
11 subdivision, evidence of any of the following circumstances shall
12 not, in and of themselves, be deemed a failure to provide or offer
13 reasonable services:

14 (1) The child has been placed with a foster family that is
15 eligible to adopt a child, or has been placed in a preadoptive
16 home.

17 (2) The case plan includes services to make and finalize a
18 permanent placement for the child if efforts to reunify fail.

19 (3) Services to make and finalize a permanent placement for
20 the child, if efforts to reunify fail, are provided concurrently with
21 services to reunify the family.

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

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

29 (2) A review of the amount of and nature of any contact
30 between the child and his or her parents and other members of
31 his or her extended family since the time of placement. Although
32 the extended family of each child shall be reviewed on a
33 case-by-case basis, "extended family" for the purposes of this
34 paragraph shall include, but not be limited to, the child's siblings,
35 grandparents, aunts, and uncles.

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

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

1 history including screening for criminal records and prior
2 referrals for child abuse or neglect, the capability to meet the
3 child's needs, and the understanding of the legal and financial
4 rights and responsibilities of adoption and guardianship. If a
5 proposed legal guardian is a relative of the minor, and the
6 relative was assessed for foster care placement of the minor prior
7 to January 1, 1998, the assessment shall also consider, but need
8 not be limited to, all of the factors specified in subdivision (a) of
9 Section 361.3.

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

18 (6) An analysis of the likelihood that the child will be adopted
19 if parental rights are terminated.

20 (c) This section shall become operative January 1, 1999. If at
21 any hearing held pursuant to Section 366.26, a legal guardianship
22 is established for the minor with a relative, and juvenile court
23 dependency is subsequently dismissed, the relative shall be
24 eligible for aid under the Kin-GAP program as provided in
25 Article 4.5 (commencing with Section 11360) of Chapter 2 of
26 Part 3 of Division 9.

27 (d) As used in this section, "relative" means an adult who is
28 related to the child by blood, adoption, or affinity within the fifth
29 degree of kinship, including stepparents, stepsiblings, and all
30 relatives whose status is preceded by the words "great,"
31 "great-great," or "grand," or the spouse of any of those persons
32 even if the marriage was terminated by death or dissolution.

33 ~~SEC. 5.~~

34 *SEC. 6.* Section 366.26 of the Welfare and Institutions Code
35 is amended to read:

36 366.26. (a) This section applies to children who are adjudged
37 dependent children of the juvenile court pursuant to subdivision
38 (c) of Section 360. The procedures specified herein are the
39 exclusive procedures for conducting these hearings; Part 2
40 (commencing with Section 3020) of Division 8 of the Family

1 Code is not applicable to these proceedings. Section 8714.7 of
2 the Family Code is applicable and available to all dependent
3 children meeting the requirements of that section, if the
4 postadoption contact agreement has been entered into
5 voluntarily. For children who are adjudged dependent children of
6 the juvenile court pursuant to subdivision (c) of Section 360, this
7 section and Sections 8604, 8605, 8606, and 8700 of the Family
8 Code and Chapter 5 (commencing with Section 7660) of Part 3
9 of Division 12 of the Family Code specify the exclusive
10 procedures for permanently terminating parental rights with
11 regard to, or establishing legal guardianship of, the child while
12 the child is a dependent child of the juvenile court.

13 (b) At the hearing, that shall be held in juvenile court for all
14 children who are dependents of the juvenile court, the court, in
15 order to provide stable, permanent homes for these children, shall
16 review the report as specified in Section 361.5, 366.21, or
17 366.22, shall indicate that the court has read and considered it,
18 shall receive other evidence that the parties may present, and then
19 shall make findings and orders in the following order of
20 preference:

21 (1) Terminate the rights of the parent or parents and order that
22 the child be placed for adoption and, upon the filing of a petition
23 for adoption in the juvenile court, order that a hearing be set. The
24 court shall proceed with the adoption after the appellate rights of
25 the natural parents have been exhausted.

26 (2) On making a finding under paragraph (3) of subdivision
27 (c), identify adoption as the permanent placement goal and order
28 that efforts be made to locate an appropriate adoptive family for
29 the child within a period not to exceed 180 days.

30 (3) Appoint a legal guardian for the child and order that letters
31 of guardianship issue.

32 (4) Order that the child be placed in long-term foster care,
33 subject to the periodic review of the juvenile court under Section
34 366.3.

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

37 (c) (1) If the court determines, based on the assessment
38 provided as ordered under subdivision (i) of Section 366.21 or
39 subdivision (b) of Section 366.22, and any other relevant
40 evidence, by a clear and convincing standard, that it is likely the

1 child will be adopted, the court shall terminate parental rights and
2 order the child placed for adoption. The fact that the child is not
3 yet placed in a preadoptive home nor with a relative or foster
4 family who is prepared to adopt the child, shall not constitute a
5 basis for the court to conclude that it is not likely the child will
6 be adopted. A finding under subdivision (b) or paragraph (1) of
7 subdivision (e) of Section 361.5 that reunification services shall
8 not be offered, under subdivision (e) of Section 366.21 that the
9 whereabouts of a parent have been unknown for six months or
10 that the parent has failed to visit or contact the child for six
11 months or that the parent has been convicted of a felony
12 indicating parental unfitness, or, under Section 366.21 or 366.22,
13 that the court has continued to remove the child from the custody
14 of the parent or guardian and has terminated reunification
15 services, shall constitute a sufficient basis for termination of
16 parental rights unless the court finds a compelling reason for
17 determining that termination would be detrimental to the child
18 due to one or more of the following circumstances:

19 (A) The parents or guardians have maintained regular
20 visitation and contact with the child and the child would benefit
21 from continuing the relationship.

22 (B) A child 12 years of age or older objects to termination of
23 parental rights.

24 (C) The child is placed in a residential treatment facility,
25 adoption is unlikely or undesirable, and continuation of parental
26 rights will not prevent finding the child a permanent family
27 placement if the parents cannot resume custody when residential
28 care is no longer needed.

29 (D) The child is living with a relative or foster parent who is
30 unable or unwilling to adopt the child because of exceptional
31 circumstances, that do not include an unwillingness to accept
32 legal or financial responsibility for the child, but who is willing
33 and capable of providing the child with a stable and permanent
34 environment and the removal of the child from the physical
35 custody of his or her relative or foster parent would be
36 detrimental to the emotional well-being of the child. This
37 subparagraph does not apply to any child who is living with a
38 nonrelative and who is either (i) under six years of age or (ii) a
39 member of a sibling group where at least one child is under six

1 years of age and the siblings are, or should be, permanently
2 placed together.

3 (E) There would be substantial interference with a child's
4 sibling relationship, taking into consideration the nature and
5 extent of the relationship, including, but not limited to, whether
6 the child was raised with a sibling in the same home, whether the
7 child shared significant common experiences or has existing
8 close and strong bonds with a sibling, and whether ongoing
9 contact is in the child's best interest, including the child's
10 long-term emotional interest, as compared to the benefit of legal
11 permanence through adoption.

12 If the court finds that termination of parental rights would be
13 detrimental to the child pursuant to subparagraph (A), (B), (C),
14 (D), or (E), it shall state its reasons in writing or on the record.

15 (2) The court shall not terminate parental rights if at each and
16 every hearing at which the court was required to consider
17 reasonable efforts or services, the court has found that reasonable
18 efforts were not made or that reasonable services were not
19 offered or provided.

20 (3) If the court finds that termination of parental rights would
21 not be detrimental to the child pursuant to paragraph (1) and that
22 the child has a probability for adoption but is difficult to place for
23 adoption and there is no identified or available prospective
24 adoptive parent, the court may identify adoption as the
25 permanent placement goal and without terminating parental
26 rights, order that efforts be made to locate an appropriate
27 adoptive family for the child within a period not to exceed 180
28 days. During this 180-day period, the public agency responsible
29 for seeking adoptive parents for each child shall, to the extent
30 possible, ask each child who is 10 years of age or older, to
31 identify any individuals, other than the child's siblings, who are
32 important to the child, in order to identify potential adoptive
33 parents. The public agency may ask any other child to provide
34 that information, as appropriate. During the 180-day period, the
35 public agency shall, to the extent possible, contact other private
36 and public adoption agencies regarding the availability of the
37 child for adoption. During the 180-day period, the public agency
38 shall conduct the search for adoptive parents in the same manner
39 as prescribed for children in Sections 8708 and 8709 of the
40 Family Code. At the expiration of this period, another hearing

1 shall be held and the court shall proceed pursuant to paragraph
2 (1) or (3) of subdivision (b). For purposes of this section, a child
3 may only be found to be difficult to place for adoption if there is
4 no identified or available prospective adoptive parent for the
5 child because of the child's membership in a sibling group, or the
6 presence of a diagnosed medical, physical, or mental handicap,
7 or the child is the age of seven years or more.

8 (4) (A) If the court finds that adoption of the child or
9 termination of parental rights is not in the best interest of the
10 child, because one of the conditions in subparagraph (A), (B),
11 (C), (D), or (E) of paragraph (1) or in paragraph (2) applies, the
12 court shall either order that the present caretakers or other
13 appropriate persons shall become legal guardians of the child or
14 order that the child remain in long-term foster care. Legal
15 guardianship shall be considered before long-term foster care, if
16 it is in the best interests of the child and if a suitable guardian can
17 be found. A child who is 10 years of age or older, shall be asked
18 to identify any individuals, other than the child's siblings, who
19 are important to the child, in order to identify potential guardians.
20 The agency may ask any other child to provide that information,
21 as appropriate.

22 (B) If the child is living with a relative or a foster parent who
23 is willing and capable of providing a stable and permanent
24 environment, but not willing to become a legal guardian, the
25 child shall not be removed from the home if the court finds the
26 removal would be seriously detrimental to the emotional
27 well-being of the child because the child has substantial
28 psychological ties to the relative caretaker or foster parents.

29 (C) The court shall also make an order for visitation with the
30 parents or guardians unless the court finds by a preponderance of
31 the evidence that the visitation would be detrimental to the
32 physical or emotional well-being of the child.

33 (5) If the court finds that the child should not be placed for
34 adoption, that legal guardianship shall not be established, and
35 that there are no suitable foster parents except exclusive-use
36 homes available to provide the child with a stable and permanent
37 environment, the court may order the care, custody, and control
38 of the child transferred from the county welfare department to a
39 licensed foster family agency. The court shall consider the
40 written recommendation of the county welfare director regarding

1 the suitability of the transfer. The transfer shall be subject to
2 further court orders.

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

15 (d) The proceeding for the appointment of a guardian for a
16 child who is a dependent of the juvenile court shall be in the
17 juvenile court. If the court finds pursuant to this section that legal
18 guardianship is the appropriate permanent plan, it shall appoint
19 the legal guardian and issue letters of guardianship. The
20 assessment prepared pursuant to subdivision (g) of Section 361.5,
21 subdivision (i) of Section 366.21, and subdivision (b) of Section
22 366.22 shall be read and considered by the court prior to the
23 appointment, and this shall be reflected in the minutes of the
24 court. The person preparing the assessment may be called and
25 examined by any party to the proceeding.

26 (e) The proceeding for the adoption of a child who is a
27 dependent of the juvenile court shall be in the juvenile court if
28 the court finds pursuant to this section that adoption is the
29 appropriate permanent plan and the petition for adoption is filed
30 in the juvenile court. Upon the filing of a petition for adoption,
31 the juvenile court shall order that an adoption hearing be set. The
32 court shall proceed with the adoption after the appellate rights of
33 the natural parents have been exhausted. The full report required
34 by Section 8715 of the Family Code shall be read and considered
35 by the court prior to the adoption and this shall be reflected in the
36 minutes of the court. The person preparing the report may be
37 called and examined by any party to the proceeding. It is the
38 intent of the Legislature, pursuant to this subdivision, to give
39 potential adoptive parents the option of filing in the juvenile
40 court the petition for the adoption of a child who is a dependent

1 of the juvenile court. Nothing in this section is intended to
2 prevent the filing of a petition for adoption in any other court as
3 permitted by law, instead of in the juvenile court.

4 (f) At the beginning of any proceeding pursuant to this section,
5 if the child or the parents are not being represented by previously
6 retained or appointed counsel, the court shall proceed as follows:

7 (1) In accordance with subdivision (c) of Section 317, if a
8 child before the court is without counsel, the court shall appoint
9 counsel unless the court finds that the child would not benefit
10 from the appointment of counsel. The court shall state on the
11 record its reasons for that finding.

12 (2) If a parent appears without counsel and is unable to afford
13 counsel, the court shall appoint counsel for the parent, unless this
14 representation is knowingly and intelligently waived. The same
15 counsel shall not be appointed to represent both the child and his
16 or her parent. The public defender or private counsel may be
17 appointed as counsel for the parent.

18 (3) Private counsel appointed under this section shall receive a
19 reasonable sum for compensation and expenses, the amount of
20 which shall be determined by the court. The amount shall be paid
21 by the real parties in interest, other than the child, in any
22 proportions the court deems just. However, if the court finds that
23 any of the real parties in interest are unable to afford counsel, the
24 amount shall be paid out of the general fund of the county.

25 (g) The court may continue the proceeding for not to exceed
26 30 days as necessary to appoint counsel, and to enable counsel to
27 become acquainted with the case.

28 (h) (1) At all proceedings under this section, the court shall
29 consider the wishes of the child and shall act in the best interests
30 of the child.

31 (2) In accordance with Section 349, the child shall be present
32 in court if the child or the child's counsel so requests or the court
33 so orders. If the child is 10 years of age or older and is not
34 present at a hearing held pursuant to this section, the court shall
35 determine whether the minor was properly notified of his or her
36 right to attend the hearing and inquire as to the reason why the
37 child is not present.

38 (3) (A) The testimony of the child may be taken in chambers
39 and outside the presence of the child's parent or parents, if the

1 child's parent or parents are represented by counsel, the counsel
2 is present, and any of the following circumstances exist:

3 (i) The court determines that testimony in chambers is
4 necessary to ensure truthful testimony.

5 (ii) The child is likely to be intimidated by a formal courtroom
6 setting.

7 (iii) The child is afraid to testify in front of his or her parent or
8 parents.

9 (B) After testimony in chambers, the parent or parents of the
10 child may elect to have the court reporter read back the testimony
11 or have the testimony summarized by counsel for the parent or
12 parents.

13 (C) The testimony of a child also may be taken in chambers
14 and outside the presence of the guardian or guardians of a child
15 under the circumstances specified in this subdivision.

16 (i) Any order of the court permanently terminating parental
17 rights under this section shall be conclusive and binding upon the
18 child, upon the parent or parents and upon all other persons who
19 have been served with citation by publication or otherwise as
20 provided in this chapter. After making the order, the court shall
21 have no power to set aside, change, or modify it, but nothing in
22 this section shall be construed to limit the right to appeal the
23 order.

24 (j) If the court, by order or judgment, declares the child free
25 from the custody and control of both parents, or one parent if the
26 other does not have custody and control, the court shall at the
27 same time order the child referred to the State Department of
28 Social Services or a licensed adoption agency for adoptive
29 placement by the agency. However, a petition for adoption may
30 not be granted until the appellate rights of the natural parents
31 have been exhausted. The State Department of Social Services or
32 licensed adoption agency shall be responsible for the custody and
33 supervision of the child and shall be entitled to the exclusive care
34 and control of the child at all times until a petition for adoption is
35 granted. With the consent of the agency, the court may appoint a
36 guardian of the child, who shall serve until the child is adopted.

37 (k) Notwithstanding any other provision of law, the
38 application of any person who, as a relative caretaker or foster
39 parent, has cared for a dependent child for whom the court has
40 approved a permanent plan for adoption, or who has been freed

1 for adoption, shall be given preference with respect to that child
2 over all other applications for adoptive placement if the agency
3 making the placement determines that the child has substantial
4 emotional ties to the relative caretaker or foster parent and
5 removal from the relative caretaker or foster parent would be
6 seriously detrimental to the child's emotional well-being.

7 As used in this subdivision, "preference" means that the
8 application shall be processed and, if satisfactory, the family
9 study shall be completed before the processing of the application
10 of any other person for the adoptive placement of the child.

11 (I) (1) An order by the court that a hearing pursuant to this
12 section be held is not appealable at any time unless all of the
13 following applies:

14 (A) A petition for extraordinary writ review was filed in a
15 timely manner.

16 (B) The petition substantively addressed the specific issues to
17 be challenged and supported that challenge by an adequate
18 record.

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

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

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

28 (A) A trial court, after issuance of an order directing a hearing
29 pursuant to this section be held, shall advise all parties of the
30 requirement of filing a petition for extraordinary writ review as
31 set forth in this subdivision in order to preserve any right to
32 appeal in these issues. This notice shall be made orally to a party
33 if the party is present at the time of the making of the order or by
34 first-class mail by the clerk of the court to the last known address
35 of a party not present at the time of the making of the order.

36 (B) The prompt transmittal of the records from the trial court
37 to the appellate court.

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

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

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

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

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

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

(m) Except for subdivision (j), this section shall also apply to minors adjudged wards pursuant to Section 727.31.

~~SEC. 6.~~

SEC. 7. Section 366.3 of the Welfare and Institutions Code is amended to read:

366.3. (a) If a juvenile court orders a permanent plan of adoption or legal guardianship pursuant to Section 360 or 366.26, the court shall retain jurisdiction over the child until the child is adopted or the legal guardianship is established, except as provided for in Section 366.29. The status of the child shall be reviewed every six months to ensure that the adoption or legal guardianship is completed as expeditiously as possible. When the adoption of the child has been granted, the court shall terminate its jurisdiction over the child. Following establishment of a legal guardianship, the court may continue jurisdiction over the child as a dependent child of the juvenile court or may terminate its dependency jurisdiction and retain jurisdiction over the child as a ward of the legal guardianship, as authorized by Section 366.4. If, however, a relative of the child is appointed the legal guardian of the child and the child has been placed with the relative for at least 12 months, the court shall, except if the relative guardian objects, or upon a finding of exceptional circumstances, terminate its dependency jurisdiction and retain jurisdiction over the child as a ward of the guardianship, as authorized by Section 366.4. Following a termination of parental rights the parent or

1 parents shall not be a party to, or receive notice of, any
2 subsequent proceedings regarding the child.

3 (b) If the court has dismissed dependency jurisdiction
4 following the establishment of a legal guardianship, or no
5 dependency jurisdiction attached because of the granting of a
6 legal guardianship pursuant to Section 360, and the legal
7 guardianship is subsequently revoked or otherwise terminated,
8 the county department of social services or welfare department
9 shall notify the juvenile court of this fact. The court may vacate
10 its previous order dismissing dependency jurisdiction over the
11 child.

12 Notwithstanding Section 1601 of the Probate Code, the
13 proceedings to terminate a legal guardianship that has been
14 granted pursuant to Section 360 or 366.26 shall be held in the
15 juvenile court, unless the termination is due to the emancipation
16 or adoption of the child. Prior to the hearing on a petition to
17 terminate legal guardianship pursuant to this paragraph, the court
18 shall order the county department of social services or welfare
19 department to prepare a report, for the court's consideration, that
20 shall include an evaluation of whether the child could safely
21 remain in the legal guardian's home, without terminating the
22 legal guardianship, if services were provided to the child or legal
23 guardian. If applicable, the report shall also identify
24 recommended services to maintain the legal guardianship and set
25 forth a plan for providing those services. If the petition to
26 terminate legal guardianship is granted, the juvenile court may
27 resume dependency jurisdiction over the child, and may order the
28 county department of social services or welfare department to
29 develop a new permanent plan, which shall be presented to the
30 court within 60 days of the termination. If no dependency
31 jurisdiction has attached, the social worker shall make any
32 investigation he or she deems necessary to determine whether the
33 child may be within the jurisdiction of the juvenile court, as
34 provided in Section 328.

35 Unless the parental rights of the child's parent or parents have
36 been terminated, they shall be notified that the legal guardianship
37 has been revoked or terminated and shall be entitled to
38 participate in the new permanency planning hearing. The court
39 shall try to place the child in another permanent placement. At
40 the hearing, the parents may be considered as custodians but the

1 child shall not be returned to the parent or parents unless they
2 prove, by a preponderance of the evidence, that reunification is
3 the best alternative for the child. The court may, if it is in the best
4 interests of the child, order that reunification services again be
5 provided to the parent or parents.

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

22 (d) If the child is in a placement other than the home of a legal
23 guardian and jurisdiction has not been dismissed, the status of the
24 child shall be reviewed at least every six months. The review of
25 the status of a child for whom the court has ordered parental
26 rights terminated and who has been ordered placed for adoption
27 shall be conducted by the court. The review of the status of a
28 child for whom the court has not ordered parental rights
29 terminated and who has not been ordered placed for adoption
30 may be conducted by the court or an appropriate local agency.
31 The court shall conduct the review under the following
32 circumstances:

33 (1) Upon the request of the child's parents or legal guardians.

34 (2) Upon the request of the child.

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

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

1 The court shall determine whether or not reasonable efforts to
2 make and finalize a permanent placement for the child have been
3 made.

4 (e) Except as provided in subdivision (f), at the review held
5 every six months pursuant to subdivision (d), the reviewing body
6 shall inquire about the progress being made to provide a
7 permanent home for the child, shall consider the safety of the
8 child, and shall determine all of the following:

9 (1) The continuing necessity for and appropriateness of the
10 placement.

11 (2) Identification of individuals other than the child's siblings
12 who are important to a child who is 10 years of age or older and
13 has been in out-of-home placement for six months or longer, and
14 actions necessary to maintain the child's relationship with those
15 individuals, provided that those relationships are in the best
16 interest of the child. The social worker shall ask every child who
17 is 10 years of age or older and who has been in out-of-home
18 placement for six months or longer to identify individuals other
19 than the child's siblings who are important to the child, and may
20 ask any other child to provide that information, as appropriate.
21 The social worker shall make efforts to identify other individuals
22 who are important to the child, consistent with the child's best
23 interests.

24 (3) The continuing appropriateness and extent of compliance
25 with the permanent plan for the child, including efforts to
26 maintain relationships between a child who is 10 years of age or
27 older and who has been in out-of-home placement for six months
28 or longer and individuals who are important to the child and
29 efforts to identify a prospective adoptive parent or legal guardian,
30 including, but not limited to, child specific recruitment efforts
31 and listing on an adoption exchange.

32 (4) The extent of the agency's compliance with the child
33 welfare services case plan in making reasonable efforts to return
34 the child to a safe home and to complete whatever steps are
35 necessary to finalize the permanent placement of the child.

36 (5) Whether there should be any limitation on the right of the
37 parent or guardian to make educational decisions for the child.
38 That limitation shall be specifically addressed in the court order
39 and may not exceed what is necessary to protect the child. If the
40 court specifically limits the right of the parent or guardian to

1 make educational decisions for the child, the court shall at the
2 same time appoint a responsible adult to make educational
3 decisions for the child pursuant to Section 361.

4 (6) The adequacy of services provided to the child. The court
5 shall consider the progress in providing the information and
6 documents to the child, as described in Section 391. The court
7 shall also consider the need for, and progress in providing, the
8 assistance and services described in paragraphs (3) and (4) of
9 subdivision (b) of Section 391.

10 (7) The extent of progress the parents or legal guardians have
11 made toward alleviating or mitigating the causes necessitating
12 placement in foster care.

13 (8) The likely date by which the child may be returned to and
14 safely maintained in the home, placed for adoption, legal
15 guardianship, or in another planned permanent living
16 arrangement.

17 (9) Whether the child has any siblings under the court's
18 jurisdiction, and, if any siblings exist, all of the following:

19 (A) The nature of the relationship between the child and his or
20 her siblings.

21 (B) The appropriateness of developing or maintaining the
22 sibling relationships pursuant to Section 16002.

23 (C) If the siblings are not placed together in the same home,
24 why the siblings are not placed together and what efforts are
25 being made to place the siblings together, or why those efforts
26 are not appropriate.

27 (D) If the siblings are not placed together, the frequency and
28 nature of the visits between siblings.

29 (E) The impact of the sibling relationships on the child's
30 placement and planning for legal permanence.

31 The factors the court may consider as indicators of the nature
32 of the child's sibling relationships include, but are not limited to,
33 whether the siblings were raised together in the same home,
34 whether the siblings have shared significant common experiences
35 or have existing close and strong bonds, whether either sibling
36 expresses a desire to visit or live with his or her sibling, as
37 applicable, and whether ongoing contact is in the child's best
38 emotional interests.

1 (10) For a child who is 16 years of age or older, the services
2 needed to assist the child to make the transition from foster care
3 to independent living.

4 The reviewing body shall determine whether or not reasonable
5 efforts to make and finalize a permanent placement for the child
6 have been made.

7 Each licensed foster family agency shall submit reports for
8 each child in its care, custody, and control to the court
9 concerning the continuing appropriateness and extent of
10 compliance with the child's permanent plan, the extent of
11 compliance with the case plan, and the type and adequacy of
12 services provided to the child.

13 Unless their parental rights have been permanently terminated,
14 the parent or parents of the child are entitled to receive notice of,
15 and participate in, those hearings. It shall be presumed that
16 continued care is in the best interests of the child, unless the
17 parent or parents prove, by a preponderance of the evidence, that
18 further efforts at reunification are the best alternative for the
19 child. In those cases, the court may order that further
20 reunification services to return the child to a safe home
21 environment be provided to the parent or parents for a period not
22 to exceed six months.

23 (f) At the review conducted by the court and held at least
24 every six months, regarding a child for whom the court has
25 ordered parental rights terminated and who has been ordered
26 placed for adoption, the county welfare department shall prepare
27 and present to the court a report describing the following:

28 (1) The child's present placement.

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

31 (3) If the child has not been placed with a prospective adoptive
32 parent or guardian, identification of individuals, other than the
33 child's siblings, who are important to the child and actions
34 necessary to maintain the child's relationship with those
35 individuals, provided that those relationships are in the best
36 interest of the child. The agency shall ask every child who is 10
37 years of age or older to identify any individuals who are
38 important to him or her, consistent with the child's best interest,
39 and may ask any child who is younger than 10 years of age to
40 provide that information as appropriate. The agency shall make

1 efforts to identify other individuals who are important to the
2 child.

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

5 (5) Whether an adoptive placement agreement has been signed
6 and filed.

7 (6) If the child has not been placed with a prospective adoptive
8 parent or parents, the efforts made to identify an appropriate
9 prospective adoptive parent or legal guardian, including, but not
10 limited to, child specific recruitment efforts and listing on an
11 adoption exchange.

12 (7) Whether the final adoption order should include provisions
13 for postadoptive sibling contact pursuant to Section 366.29.

14 (8) The progress of the search for an adoptive placement if one
15 has not been identified.

16 (9) Any impediments to the adoption or the adoptive
17 placement.

18 (10) The anticipated date by which the child will be adopted,
19 or placed in an adoptive home.

20 (11) The anticipated date by which an adoptive placement
21 agreement will be signed.

22 (12) Recommendations for court orders that will assist in the
23 placement of the child for adoption or in the finalization of the
24 adoption.

25 The court shall determine whether or not reasonable efforts to
26 make and finalize a permanent placement for the child have been
27 made.

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

31 (g) At the review held pursuant to subdivision (d) for a child in
32 long-term foster care, the court shall consider all permanency
33 planning options for the child including whether the child should
34 be returned to the home of the parent, placed for adoption, or
35 appointed a legal guardian, or, if compelling reasons exist for
36 finding that none of the foregoing options are in the best interest
37 of the child, whether the child should be placed in another
38 planned permanent living arrangement. The court shall order that
39 a hearing be held pursuant to Section 366.26 unless it determines
40 by clear and convincing evidence, that there is a compelling

reason for determining that a hearing held pursuant to Section 366.26 is not in the best interest of the child because the child is being returned to the home of the parent, the child is not a proper subject for adoption, or no one is willing to accept legal guardianship. If the licensed county adoption agency, or the department when it is acting as an adoption agency in counties that are not served by a county adoption agency, has determined it is unlikely that the child will be adopted or one of the conditions described in paragraph (1) of subdivision (c) of Section 366.26 applies, that fact shall constitute a compelling reason for purposes of this subdivision. Only upon that determination may the court order that the child remain in foster care, without holding a hearing pursuant to Section 366.26.

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

SEC. 8 Section 16001.9 of the Welfare and Institutions Code is amended to read:

16001.9. (a) It is the policy of the state that all children in foster care shall have the following rights:

(1) To live in a safe, healthy, and comfortable home where he or she is treated with respect.

(2) To be free from physical, sexual, emotional, or other abuse, or corporal punishment.

(3) To receive adequate and healthy food, adequate clothing, and, for youth in group homes, an allowance.

(4) To receive medical, dental, vision, and mental health services.

(5) To be free of the administration of medication or chemical substances, unless authorized by a physician.

1 (6) To contact family members, unless prohibited by court
2 order, and social workers, attorneys, foster youth advocates and
3 supporters, Court Appointed Special Advocates (CASA), and
4 probation officers.

5 (7) To visit and contact brothers and sisters, unless prohibited
6 by court order.

7 (8) To contact the Community Care Licensing Division of the
8 State Department of Social Services or the State Foster Care
9 Ombudsperson regarding violations of rights, to speak to
10 representatives of these offices confidentially, and to be free
11 from threats or punishment for making complaints.

12 (9) To make and receive confidential telephone calls and send
13 and receive unopened mail, unless prohibited by court order.

14 (10) To attend religious services and activities of his or her
15 choice.

16 (11) To maintain an emancipation bank account and manage
17 personal income, consistent with the child's age and
18 developmental level, unless prohibited by the case plan.

19 (12) To not be locked in any room, building, or facility
20 premises, unless placed in a community treatment facility.

21 (13) To attend school and participate in extracurricular,
22 cultural, and personal enrichment activities, consistent with the
23 child's age and developmental level.

24 (14) To work and develop job skills at an age-appropriate level
25 that is consistent with state law.

26 (15) To have social contacts with people outside of the foster
27 care system, such as teachers, church members, mentors, and
28 friends.

29 (16) To attend Independent Living Program classes and
30 activities if he or she meets age requirements.

31 (17) To attend court hearings and speak to the judge.

32 (18) To have storage space for private use.

33 (19) *To be involved in the development of his or her own case*
34 *plan and plan for permanent placement.*

35 (20) To review his or her own case plan if he or she is ~~over~~ 12
36 years of age *or older* and to receive information about his or her
37 out-of-home placement and case plan, including being told of
38 changes to the plan.

39 ~~(20)~~

1 (21) To be free from unreasonable searches of personal
2 belongings.

3 ~~(21)~~

4 (22) To confidentiality of all juvenile court records consistent
5 with existing law.

6 ~~(22)~~

7 (23) To have fair and equal access to all available services,
8 placement, care, treatment, and benefits, and to not be subjected
9 to discrimination or harassment on the basis of actual or
10 perceived race, ethnic group identification, ancestry, national
11 origin, color, religion, sex, sexual orientation, gender identity,
12 mental or physical disability, or HIV status.

13 ~~(23)~~

14 (24) At 16 years of age or older, to have access to existing
15 information regarding the educational options available,
16 including, but not limited to, the coursework necessary for
17 vocational and postsecondary educational programs, and
18 information regarding financial aid for postsecondary education.

19 (b) Nothing in this section shall be interpreted to require a
20 foster care provider to take any action that would impair the
21 health and safety of children in out-of-home placement.

22 (c) The State Department of Social Services and each county
23 welfare department are encouraged to work with the Student Aid
24 Commission, the University of California, the California State
25 University, and the California Community Colleges to receive
26 information pursuant to paragraph (23) of subdivision (a).

27 *SEC. 9 Section 16500.1 of the Welfare and Institutions Code*
28 *is amended to read:*

29 16500.1. (a) It is the intent of the Legislature to use the
30 strengths of families and communities to serve the needs of
31 children who are alleged to be abused or neglected, as described
32 in Section 300, to reduce the necessity for removing these
33 children from their home, to encourage speedy reunification of
34 families when it can be safely accomplished, to locate permanent
35 homes and families for children who cannot return to their
36 biological families, to reduce the number of placements
37 experienced by these children, to ensure that children leaving the
38 foster care system have support within their communities, to
39 improve the quality and homelike nature of out-of-home care,

1 and to foster the educational progress of children in out-of-home
2 care.

3 (b) In order to achieve the goals specified in subdivision (a),
4 the state shall encourage the development of approaches to child
5 protection that do all of the following:

6 (1) Allow children to remain in their own schools, in close
7 proximity to their families.

8 (2) Increase the number and quality of foster families available
9 to serve these children.

10 (3) Use a team approach to foster care that permits the
11 biological and foster family *and the child* to be part of that team.

12 (4) Use team decisionmaking in case planning.

13 (5) Provide support to foster children and foster families.

14 (6) Ensure that licensing requirements do not create barriers to
15 recruitment of qualified, high quality foster homes.

16 (7) Provide training for foster parents and professional staff on
17 working effectively with families and communities.

18 (8) Encourage foster parents to serve as mentors and role
19 models for biological parents.

20 (9) Use community resources, including community-based
21 agencies and volunteer organizations, to assist in developing
22 placements for children and to provide support for children and
23 their families.

24 (10) Ensure an appropriate array of placement resources for
25 children in need of out-of-home care.

26 (11) Ensure that no child leaves foster care without a life-long
27 connection to a committed adult.

28 (12) *Ensure that children are actively involved in the case*
29 *plan and permanency planning process.*

30 (c) In carrying out the requirements of subdivision (b), the
31 department shall do all of the following:

32 (1) Consider the existing array of program models provided in
33 statute and in practice, including, but not limited to, wraparound
34 services, as defined in Section 18251, children's systems of care,
35 as provided for in Section 5852, the Oregon Family Unity or
36 Santa Clara County Family Conference models, which include
37 family conferences at key points in the casework process, such as
38 when out-of-home placement or return home are considered, and
39 the Annie E. Casey Foundation Family to Family initiative,
40 which uses team decisionmaking in case planning,

1 community-based placement practices requiring that children be
2 placed in foster care in the communities where they resided prior
3 to placement, and involve foster families as team members in
4 family reunification efforts.

5 (2) Ensure that emergency response services, family
6 maintenance services, family reunification services, and
7 permanent placement services are coordinated with the
8 implementation of the models described in paragraph (1).

9 (3) Ensure consistency between child welfare services
10 program regulations and the program models described in
11 paragraph (1).

12 (d) The department, in conjunction with stakeholders,
13 including, but not limited to, county child welfare services
14 agencies, foster parent and group home associations, the
15 California Youth Connection, and other child advocacy groups,
16 shall review the existing child welfare services program
17 regulations to ensure that these regulations are consistent with the
18 legislative intent specified in subdivision (a). This review shall
19 also determine how to incorporate the best practice guidelines for
20 assessment of children and families receiving child welfare and
21 foster care services, as required by Section 16501.2.

22 (e) The department shall report to the Legislature on the
23 results of the actions taken under this section on or before
24 January 1, 2002.

25 ~~SEC. 7.~~

26 *SEC. 10.* Section 16501.1 of the Welfare and Institutions
27 Code is amended to read:

28 16501.1. (a) (1) The Legislature finds and declares that the
29 foundation and central unifying tool in child welfare services is
30 the case plan.

31 (2) The Legislature further finds and declares that a case plan
32 ensures that the child receives protection and safe and proper
33 care and case management, and that services are provided to the
34 child and parents or other caretakers, as appropriate, in order to
35 improve conditions in the parent's home, to facilitate the safe
36 return of the child to a safe home or the permanent placement of
37 the child, and to address the needs of the child while in foster
38 care.

39 (b) (1) A case plan shall be based upon the principles of this
40 section and shall document that a preplacement assessment of the

1 service needs of the child and family, and preplacement
2 preventive services, have been provided, and that reasonable
3 efforts to prevent out-of-home placement have been made.

4 (2) In determining the reasonable services to be offered or
5 provided, the child's health and safety shall be the paramount
6 concerns.

7 (3) Reasonable services shall be offered or provided to make it
8 possible for a child to return to a safe home environment, unless,
9 pursuant to subdivisions (b) and (e) of Section 361.5, the court
10 determines that reunification services shall not be provided.

11 (4) If reasonable services are not ordered, or are terminated,
12 reasonable efforts shall be made to place the child in a timely
13 manner in accordance with the permanent plan and to complete
14 all steps necessary to finalize the permanent placement of the
15 child.

16 (c) (1) If out-of-home placement is used to attain case plan
17 goals, the decision regarding choice of placement shall be based
18 upon selection of a safe setting that is the least restrictive or most
19 familylike and the most appropriate setting that is available and
20 in close proximity to the parent's home, proximity to the child's
21 school, consistent with the selection of the environment best
22 suited to meet the child's special needs and best interests, or
23 both. The selection shall consider, in order of priority, placement
24 with relatives, tribal members, and foster family, group care, and
25 residential treatment pursuant to Section 7950 of the Family
26 Code.

27 (2) In addition to the requirements of paragraph (1), and taking
28 into account other statutory considerations regarding placement,
29 the selection of the most appropriate home that will meet the
30 child's special needs and best interests shall also promote
31 educational stability by taking into consideration proximity to the
32 child's school attendance area.

33 (d) A written case plan shall be completed within a maximum
34 of 60 days of the initial removal of the child or of the in-person
35 response required under subdivision (f) of Section 16501 if the
36 child has not been removed from his or her home, or by the date
37 of the dispositional hearing pursuant to Section 358, whichever
38 occurs first. The case plan shall be updated, as the service needs
39 of the child and family dictate. At a minimum, the case plan shall
40 be updated in conjunction with each status review hearing

1 conducted pursuant to Section 366.21, and the hearing conducted
2 pursuant to Section 366.26, but no less frequently than once
3 every six months. Each updated case plan shall include a
4 description of the services that have been provided to the child
5 under the plan and an evaluation of the appropriateness and
6 effectiveness of those services.

7 (1) It is the intent of the Legislature that extending the
8 maximum time available for preparing a written case plan from
9 30 to 60 days will afford caseworkers time to actively engage
10 families, and to solicit and integrate into the case plan the input
11 of the child and the child's family, as well as the input of
12 relatives and other interested parties.

13 (2) The extension of the maximum time available for
14 preparing a written case plan from the 30 to 60 days shall be
15 effective 90 days after the date that the department gives counties
16 written notice that necessary changes have been made to the
17 Child Welfare Services Case Management System to account for
18 the 60-day timeframe for preparing a written case plan.

19 (e) The child welfare services case plan shall be
20 comprehensive enough to meet the juvenile court dependency
21 proceedings requirements pursuant to Article 6 (commencing
22 with Section 300) of Chapter 2 of Part 1 of Division 2.

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

24 (1) The case plan shall be based upon an assessment of the
25 circumstances that required child welfare services intervention.
26 The child shall be involved in developing the case plan as age,
27 and developmentally, appropriate.

28 (2) The case plan shall identify specific goals and the
29 appropriateness of the planned services in meeting those goals.

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

37 (4) The case plan shall include a description of the schedule of
38 the social worker contacts with the child and the family or other
39 caretakers. The frequency of these contacts shall be in
40 accordance with regulations adopted by the State Department of

1 Social Services. If the child has been placed in foster care out of
2 state, the county social worker or a social worker on the staff of
3 the social services agency in the state in which the child has been
4 placed shall visit the child in a foster family home or the home of
5 a relative at least every 12 months and submit a report to the
6 court on each visit. For children in out-of-state group home
7 facilities, visits shall be conducted at least monthly, pursuant to
8 Section 16516.5. At least once every six months, at the time of a
9 regularly scheduled social worker contact with the foster child,
10 the child's social worker shall inform the child of his or her
11 rights as a foster child, as specified in Section 16001.9. The
12 social worker shall provide the information to the child in a
13 manner appropriate to the age or developmental level of the
14 child.

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

20 (B) Information regarding any court-ordered visitation
21 between the child and the natural parents or legal guardians, and
22 the terms and conditions needed to facilitate the visits while
23 protecting the safety of the child, shall be provided to the child's
24 out-of-home caregiver as soon as possible after the court order is
25 made.

26 (6) When out-of-home placement is made, the case plan shall
27 include provisions for the development and maintenance of
28 sibling relationships as specified in subdivisions (b), (c), and (d)
29 of Section 16002. If appropriate, when siblings who are
30 dependents of the juvenile court are not placed together, the
31 social worker for each child, if different, shall communicate with
32 each of the other social workers and ensure that the child's
33 siblings are informed of significant life events that occur within
34 their extended family. Unless it has been determined that it is
35 inappropriate in a particular case to keep siblings informed of
36 significant life events that occur within the extended family, the
37 social worker shall determine the appropriate means and setting
38 for disclosure of this information to the child commensurate with
39 the child's age and emotional well-being. These significant life
40 events shall include, but shall not be limited to, the following:

1 (A) The death of an immediate relative.

2 (B) The birth of a sibling.

3 (C) Significant changes regarding a dependent child, unless
4 the child objects to the sharing of the information with his or her
5 siblings, including changes in placement, major medical or
6 mental health diagnoses, treatments, or hospitalizations, arrests,
7 and changes in the permanent plan.

8 (7) If out-of-home placement is made in a foster family home,
9 group home or other child care institution that is either a
10 substantial distance from the home of the child's parent or out of
11 state, the case plan shall specify the reasons why that placement
12 is in the best interest of the child. When an out-of-state group
13 home placement is recommended or made, the case plan shall, in
14 addition, specify compliance with Section 7911.1 of the Family
15 Code.

16 (8) (A) If out-of-home services are used, or if parental rights
17 have been terminated and the case plan is placement for
18 adoption, the case plan shall include a recommendation regarding
19 the appropriateness of unsupervised visitation between the child
20 and any of the child's siblings. This recommendation shall
21 include a statement regarding the child's and the siblings'
22 willingness to participate in unsupervised visitation. If the case
23 plan includes a recommendation for unsupervised sibling
24 visitation, the plan shall also note that information necessary to
25 accomplish this visitation has been provided to the child or to the
26 child's siblings.

27 (B) Information regarding the schedule and frequency of the
28 visits between the child and siblings, as well as any court-ordered
29 terms and conditions needed to facilitate the visits while
30 protecting the safety of the child, shall be provided to the child's
31 out-of-home caregiver as soon as possible after the court order is
32 made.

33 (9) If out-of-home services are used and the goal is
34 reunification, the case plan shall describe the services to be
35 provided to assist in reunification and the services to be provided
36 concurrently to achieve legal permanency if efforts to reunify
37 fail. The plan shall also consider the importance of developing
38 and maintaining sibling relationships pursuant to Section 16002,
39 and the desire and willingness of the caregiver to provide legal
40 permanency for the child if reunification is unsuccessful.

(10) If out-of-home services are used, the child has been in care for at least 12 months, and the goal is not adoptive placement, the case plan shall include documentation of the compelling reason or reasons why termination of parental rights is not in the child's best interest. A determination completed or updated within the past 12 months by the department when it is acting as an adoption agency or by a licensed adoption agency that it is unlikely that the child will be adopted, or that one of the conditions described in paragraph (1) of subdivision (c) of Section 366.26 applies, shall be deemed a compelling reason.

(11) (A) Parents and legal guardians shall have an opportunity to review the case plan, and to sign it whenever possible, and then shall receive a copy of the plan. In any voluntary service or placement agreement, the parents or legal guardians shall be required to review and sign the case plan. Whenever possible, parents and legal guardians shall participate in the development of the case plan.

(B) Parents and legal guardians shall be advised that, pursuant to Section 1228.1 of the Evidence Code, neither their signature on the child welfare services case plan nor their acceptance of any services prescribed in the child welfare services case plan shall constitute an admission of guilt or be used as evidence against the parent or legal guardian in a court of law. However, they shall also be advised that the parent's or guardian's failure to cooperate, except for good cause, in the provision of services specified in the child welfare services case plan may be used in any hearing held pursuant to Section 366.21 or 366.22 as evidence.

(12) *A child shall be given the opportunity to participate in the development of the case plan. A child who is 12 years of age or older shall also be given the opportunity to review the case plan, sign the case plan, and receive a copy of the case plan.*

(13) The case plan shall be included in the court report and shall be considered by the court at the initial hearing and each review hearing. Modifications to the case plan made during the period between review hearings need not be approved by the court if the casework supervisor for that case determines that the modifications further the goals of the plan. If out-of-home services are used with the goal of family reunification, the case

1 plan shall consider and describe the application of subdivision (b)
2 of Section 11203.

3 ~~(13)~~

4 (14) If the case plan has as its goal for the child a permanent
5 plan of adoption or placement in another permanent home, it
6 shall include *an investigation into, and statement of, the child's*
7 *wishes regarding their permanent placement plan. The agency*
8 *shall also include* documentation of the steps the agency is taking
9 to find an adoptive family or other permanent living
10 arrangements for the child; to place the child with an adoptive
11 family, an appropriate and willing relative, a legal guardian, or in
12 another planned permanent living arrangement; and to finalize
13 the adoption or legal guardianship. At a minimum, the
14 documentation shall include child specific recruitment efforts,
15 such as the use of state, regional, and national adoption
16 exchanges, including electronic exchange systems, when the
17 child has been freed for adoption.

18 ~~(14)~~

19 (15) When appropriate, for a child who is 16 years of age or
20 older, the case plan shall include a written description of the
21 programs and services that will help the child, consistent with the
22 child's best interests, prepare for the transition from foster care to
23 independent living. The case plan shall be developed with the
24 child and individuals identified as important to the child, and
25 shall include steps the agency is taking to ensure that the child
26 has a connection to a caring adult.

27 (g) If the court finds, after considering the case plan, that
28 unsupervised sibling visitation is appropriate and has been
29 consented to, the court shall order that the child or the child's
30 siblings, the child's current caregiver, and the child's prospective
31 adoptive parents, if applicable, be provided with information
32 necessary to accomplish this visitation. This section does not
33 require or prohibit the social worker's facilitation, transportation,
34 or supervision of visits between the child and his or her siblings.

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

39 (i) When a child who is 10 years of age or older and who has
40 been in out-of-home placement for six months or longer, the case

1 plan shall include an identification of individuals, other than the
2 child's siblings, who are important to the child and actions
3 necessary to maintain the child's relationship with those
4 individuals, provided that those relationships are in the best
5 interest of the child. The social worker shall ask every child who
6 is 10 years of age or older and who has been in out-of-home
7 placement for six months or longer to identify individuals other
8 than the child's siblings who are important to the child, and may
9 ask any other child to provide that information, as appropriate.
10 The social worker shall make efforts to identify other individuals
11 who are important to the child, consistent with the child's best
12 interests.

13 (j) The child's caregiver shall be provided a copy of a plan
14 outlining the child's needs and services.

15 (k) The department, in consultation with the County Welfare
16 Directors Association and other advocates, shall develop
17 standards and guidelines for a model relative placement search
18 and assessment process based on the criteria established in
19 Section 361.3. These guidelines shall be incorporated in the
20 training described in Section 16206. These model standards and
21 guidelines shall be developed by March 1, 1999.

22 ~~SEC. 8.~~

23 *SEC. 11.* If the Commission on State Mandates determines
24 that this act contains costs mandated by the state, reimbursement
25 to local agencies and school districts for those costs shall be
26 made pursuant to Part 7 (commencing with Section 17500) of
27 Division 4 of Title 2 of the Government Code.