

AMENDED IN SENATE AUGUST 30, 2005

AMENDED IN ASSEMBLY MAY 27, 2005

AMENDED IN ASSEMBLY APRIL 7, 2005

CALIFORNIA LEGISLATURE—2005—06 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1412**

**Introduced by Assembly Member Leno  
(Coauthor: Assembly Member Berg)**

February 22, 2005

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An act to amend Sections 366, 366.1, 366.21, 366.22, 366.26, 366.3, 16001.9, 16500.1, and 16501.1 of, and to add Section 366.35 to, 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,

subject to appropriation through the budget process and by phase, as specified. The bill would also require that a child be involved in developing his or her case plan as age and developmentally appropriate. 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 and plan for permanent placement 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 an opportunity to participate in the development of a case plan and state his or her preference for ~~residential~~ *foster care* placement, and that a child 12 years of age or older in a permanent placement 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 SEC. 2. Section 366 of the Welfare and Institutions Code is
- 5 amended to read:

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

8 (A) The continuing necessity for and appropriateness of the  
9 placement.

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

18 (C) Whether there should be any limitation on the right of the  
19 parent or guardian to make educational decisions for the child.  
20 That limitation shall be specifically addressed in the court order  
21 and may not exceed those necessary to protect the child.  
22 Whenever the court specifically limits the right of the parent or  
23 guardian to make educational decisions for the child, the court  
24 shall at the same time appoint a responsible adult to make  
25 educational decisions for the child pursuant to Section 361.

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

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

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

32 (III) If the siblings are not placed together in the same home,  
33 why the siblings are not placed together and what efforts are  
34 being made to place the siblings together, or why those efforts  
35 are not appropriate.

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

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

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

3 (ii) The factors the court may consider in making a  
4 determination regarding the nature of the child’s sibling  
5 relationships may include, but are not limited to, whether the  
6 siblings were raised together in the same home, whether the  
7 siblings have shared significant common experiences or have  
8 existing close and strong bonds, whether either sibling expresses  
9 a desire to visit or live with his or her sibling, as applicable, and  
10 whether ongoing contact is in the child’s best emotional interests.

11 (E) The extent of progress which has been made toward  
12 alleviating or mitigating the causes necessitating placement in  
13 foster care.

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

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

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

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

29 (e) The implementation and operation of the amendments to  
30 ~~this section~~ *subparagraph (B) of paragraph (1) of subdivision (a)*  
31 enacted at the 2005–06 Regular Session shall be subject to  
32 appropriation through the budget process and by phase, as  
33 provided in Section 366.35.

34 SEC. 3. Section 366.1 of the Welfare and Institutions Code is  
35 amended to read:

36 366.1. Each supplemental report required to be filed pursuant  
37 to Section 366 shall include, but not be limited to, a factual  
38 discussion of each of the following subjects:

39 (a) Whether the county welfare department social worker has  
40 considered child protective services, as defined in Chapter 5

1 (commencing with Section 16500) of Part 4 of Division 9, as a  
2 possible solution to the problems at hand, and has offered those  
3 services to qualified parents, if appropriate under the  
4 circumstances.

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

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

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

14 (e) If the parent or guardian is unwilling or unable to  
15 participate in making an educational decision for his or her child,  
16 or if other circumstances exist that compromise the ability of the  
17 parent or guardian to make educational decisions for the child,  
18 the county welfare department or social worker shall consider  
19 whether the right of the parent or guardian to make educational  
20 decisions for the child should be limited. If the supplemental  
21 report makes that recommendation, the report shall identify  
22 whether there is a responsible adult available to make educational  
23 decisions for the child pursuant to Section 361.

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

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

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

30 (C) If the siblings are not placed together in the same home,  
31 why the siblings are not placed together and what efforts are  
32 being made to place the siblings together, or why those efforts  
33 are not appropriate.

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

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

38 (2) The factual discussion shall include a discussion of  
39 indicators of the nature of the child's sibling relationships,  
40 including, but not limited to, whether the siblings were raised

1 together in the same home, whether the siblings have shared  
2 significant common experiences or have existing close and  
3 strong bonds, whether either sibling expresses a desire to visit or  
4 live with his or her sibling, as applicable, and whether ongoing  
5 contact is in the child's best emotional interests.

6 (g) Whether a child who is 10 years of age or older and who  
7 has been in an out-of-home placement for six months or longer  
8 has relationships with individuals other than the child's siblings  
9 that are important to the child, consistent with the child's best  
10 interests, and actions taken to maintain those relationships. The  
11 social worker shall ask every child who is 10 years of age or  
12 older and who has been in an out-of-home placement for six  
13 months or longer to identify any individuals other than the  
14 child's siblings who are important to the child, consistent with  
15 the child's best interest. The social worker may ask any other  
16 child to provide that information, as appropriate.

17 (h) The implementation and operation of the amendments to  
18 ~~this section~~ *subdivision (g)* enacted at the 2005–06 Regular  
19 Session shall be subject to appropriation through the budget  
20 process and by phase, as provided in Section 366.35.

21 SEC. 4. Section 366.21 of the Welfare and Institutions Code  
22 is amended to read:

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

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

30 (c) At least 10 calendar days prior to the hearing, the social  
31 worker shall file a supplemental report with the court regarding  
32 the services provided or offered to the parent or legal guardian to  
33 enable him or her to assume custody and the efforts made to  
34 achieve legal permanence for the child if efforts to reunify fail,  
35 including, but not limited to, efforts to maintain relationships  
36 between a child who is 10 years of age or older and has been in  
37 out-of-home placement for six months or longer and individuals  
38 who are important to the child, consistent with the child's best  
39 interests; the progress made; and, where relevant, the prognosis  
40 for return of the child to the physical custody of his or her parent

1 or legal guardian; and shall make his or her recommendation for  
2 disposition. If the child is a member of a sibling group described  
3 in paragraph (3) of subdivision (a) of Section 361.5, the report  
4 and recommendation may also take into account those factors  
5 described in subdivision (e) relating to the child's sibling group.  
6 If the recommendation is not to return the child to a parent or  
7 legal guardian, the report shall specify why the return of the child  
8 would be detrimental to the child. The social worker shall  
9 provide the parent or legal guardian, counsel for the child, and  
10 any court-appointed child advocate with a copy of the report,  
11 including his or her recommendation for disposition, at least 10  
12 calendar days prior to the hearing. In the case of a child removed  
13 from the physical custody of his or her parent or legal guardian,  
14 the social worker shall, at least 10 calendar days prior to the  
15 hearing, provide a summary of his or her recommendation for  
16 disposition to any foster parents, relative caregivers, and certified  
17 foster parents who have been approved for adoption by the State  
18 Department of Social Services when it is acting as an adoption  
19 agency in counties that are not served by a county adoption  
20 agency or by a licensed county adoption agency, community care  
21 facility, or foster family agency having the physical custody of  
22 the child.

23 (d) Prior to any hearing involving a child in the physical  
24 custody of a community care facility or a foster family agency  
25 that may result in the return of the child to the physical custody  
26 of his or her parent or legal guardian, or in adoption or the  
27 creation of a legal guardianship, the facility or agency shall file  
28 with the court a report containing its recommendation for  
29 disposition. Prior to the hearing involving a child in the physical  
30 custody of a foster parent, a relative caregiver, or a certified  
31 foster parent who has been approved for adoption by the State  
32 Department of Social Services when it is acting as an adoption  
33 agency or by a licensed adoption agency, the foster parent,  
34 relative caregiver, or the certified foster parent who has been  
35 approved for adoption by the State Department of Social Services  
36 when it is acting as an adoption agency in counties that are not  
37 served by a county adoption agency or by a licensed county  
38 adoption agency, may file with the court a report containing his  
39 or her recommendation for disposition. The court shall consider

1 the report and recommendation filed pursuant to this subdivision  
2 prior to determining any disposition.

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

20 Whether or not the child is returned to a parent or legal  
21 guardian, the court shall specify the factual basis for its  
22 conclusion that the return would be detrimental or would not be  
23 detrimental. The court also shall make appropriate findings  
24 pursuant to subdivision (a) of Section 366; and, where relevant,  
25 shall order any additional services reasonably believed to  
26 facilitate the return of the child to the custody of his or her parent  
27 or legal guardian. The court shall also inform the parent or legal  
28 guardian that if the child cannot be returned home by the  
29 12-month permanency hearing, a proceeding pursuant to Section  
30 366.26 may be instituted. This section does not apply in a case  
31 where, pursuant to Section 361.5, the court has ordered that  
32 reunification services shall not be provided.

33 If the child was under the age of three years on the date of the  
34 initial removal, or is a member of a sibling group described in  
35 paragraph (3) of subdivision (a) of Section 361.5, and the court  
36 finds by clear and convincing evidence that the parent failed to  
37 participate regularly and make substantive progress in a  
38 court-ordered treatment plan, the court may schedule a hearing  
39 pursuant to Section 366.26 within 120 days. If, however, the  
40 court finds there is a substantial probability that the child, who

1 was under the age of three years on the date of initial removal or  
2 is a member of a sibling group described in paragraph (3) of  
3 subdivision (a) of Section 361.5, may be returned to his or her  
4 parent or legal guardian within six months or that reasonable  
5 services have not been provided, the court shall continue the case  
6 to the 12-month permanency hearing.

7 For the purpose of placing and maintaining a sibling group  
8 together in a permanent home, the court, in making its  
9 determination to schedule a hearing pursuant to Section 366.26  
10 for some or all members of a sibling group, as described in  
11 paragraph (3) of subdivision (a) of Section 361.5, shall review  
12 and consider the social worker's report and recommendations.  
13 Factors the report shall address, and the court shall consider, may  
14 include, but need not be limited to, whether the sibling group was  
15 removed from parental care as a group, the closeness and  
16 strength of the sibling bond, the ages of the siblings, the  
17 appropriateness of maintaining the sibling group together, the  
18 detriment to the child if sibling ties are not maintained, the  
19 likelihood of finding a permanent home for the sibling group,  
20 whether the sibling group is currently placed together in a  
21 preadoptive home or has a concurrent plan goal of legal  
22 permanency in the same home, the wishes of each child whose  
23 age and physical and emotional condition permits a meaningful  
24 response, and the best interest of each child in the sibling group.  
25 The court shall specify the factual basis for its finding that it is in  
26 the best interest of each child to schedule a hearing pursuant to  
27 Section 366.26 in 120 days for some or all of the members of the  
28 sibling group.

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

38 If the child had been placed under court supervision with a  
39 previously noncustodial parent pursuant to Section 361.2, the  
40 court shall determine whether supervision is still necessary. The

1 court may terminate supervision and transfer permanent custody  
2 to that parent, as provided for by paragraph (1) of subdivision (b)  
3 of Section 361.2.

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

9 If the child is not returned to his or her parent or legal  
10 guardian, the court shall determine whether reasonable services  
11 that were designed to aid the parent or legal guardian in  
12 overcoming the problems that led to the initial removal and the  
13 continued custody of the child have been provided or offered to  
14 the parent or legal guardian. The court shall order that those  
15 services be initiated, continued, or terminated.

16 (f) The permanency hearing shall be held no later than 12  
17 months after the date the child entered foster care, as that date is  
18 determined pursuant to subdivision (a) of Section 361.5. At the  
19 permanency hearing, the court shall determine the permanent  
20 plan for the child, which shall include a determination of whether  
21 the child will be returned to the child's home and, if so, when,  
22 within the time limits of subdivision (a) of Section 361.5. The  
23 court shall order the return of the child to the physical custody of  
24 his or her parent or legal guardian unless the court finds, by a  
25 preponderance of the evidence, that the return of the child to his  
26 or her parent or legal guardian would create a substantial risk of  
27 detriment to the safety, protection, or physical or emotional  
28 well-being of the child. The social worker shall have the burden  
29 of establishing that detriment. The court shall also determine  
30 whether reasonable services that were designed to aid the parent  
31 or legal guardian to overcome the problems that led to the initial  
32 removal and continued custody of the child have been provided  
33 or offered to the parent or legal guardian. For each youth 16  
34 years of age and older, the court shall also determine whether  
35 services have been made available to assist him or her in making  
36 the transition from foster care to independent living. 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, 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 of services provided,  
6 and shall make appropriate findings pursuant to subdivision (a)  
7 of Section 366.

8 Whether or not the child is returned to his or her parent or legal  
9 guardian, the court shall specify the factual basis for its decision.  
10 If the child is not returned to a parent or legal guardian, the court  
11 shall specify the factual basis for its conclusion that the return  
12 would be detrimental. The court also shall make a finding  
13 pursuant to subdivision (a) of Section 366.

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

20 (1) Continue the case for up to six months for a permanency  
21 review hearing, provided that the hearing shall occur within 18  
22 months of the date the child was originally taken from the  
23 physical custody of his or her parent or legal guardian. The court  
24 shall continue the case only if it finds that there is a substantial  
25 probability that the child will be returned to the physical custody  
26 of his or her parent or legal guardian and safely maintained in the  
27 home within the extended period of time or that reasonable  
28 services have not been provided to the parent or legal guardian.  
29 For the purposes of this section, in order to find a substantial  
30 probability that the child will be returned to the physical custody  
31 of his or her parent or legal guardian and safely maintained in the  
32 home within the extended period of time, the court shall be  
33 required to find all of the following:

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

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

39 (C) The parent or legal guardian has demonstrated the capacity  
40 and ability both to complete the objectives of his or her treatment

1 plan and to provide for the child's safety, protection, physical  
2 and emotional well-being, and special needs.

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

9 The court shall inform the parent or legal guardian that if the  
10 child cannot be returned home by the next permanency review  
11 hearing, a proceeding pursuant to Section 366.26 may be  
12 instituted. The court may not order that a hearing pursuant to  
13 Section 366.26 be held unless there is clear and convincing  
14 evidence that reasonable services have been provided or offered  
15 to the parent or legal guardian.

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

21 (3) Order that the child remain in long-term foster care, but  
22 only if the court finds by clear and convincing evidence, based  
23 upon the evidence already presented to it, including a  
24 recommendation by the State Department of Social Services  
25 when it is acting as an adoption agency in counties that are not  
26 served by a county adoption agency or by a licensed county  
27 adoption agency, that there is a compelling reason for  
28 determining that a hearing held pursuant to Section 366.26 is not  
29 in the best interest of the child because the child is not a proper  
30 subject for adoption and has no one willing to accept legal  
31 guardianship. For purposes of this section, a recommendation by  
32 the State Department of Social Services when it is acting as an  
33 adoption agency in counties that are not served by a county  
34 adoption agency or by a licensed county adoption agency that  
35 adoption is not in the best interest of the child shall constitute a  
36 compelling reason for the court's determination. That  
37 recommendation shall be based on the present circumstances of  
38 the child and may not preclude a different recommendation at a  
39 later date if the child's circumstances change.

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

8 (h) In any case in which the court orders that a hearing  
9 pursuant to Section 366.26 shall be held, it shall also order the  
10 termination of reunification services to the parent or legal  
11 guardian. The court shall continue to permit the parent or legal  
12 guardian to visit the child pending the hearing unless it finds that  
13 visitation would be detrimental to the child. The court shall make  
14 any other appropriate orders to enable the child to maintain  
15 relationships with individuals, other than the child's siblings,  
16 who are important to the child, consistent with the child's best  
17 interests.

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

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

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

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

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

1 rights and responsibilities of adoption and guardianship. If a  
2 proposed guardian is a relative of the minor, and the relative was  
3 assessed for foster care placement of the minor prior to January  
4 1, 1998, the assessment shall also consider, but need not be  
5 limited to, all of the factors specified in subdivision (a) of  
6 Section 361.3.

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

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

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

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

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

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

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

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

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

4 (m) The implementation and operation of the amendments to  
5 ~~this section~~ *subdivisions (c) and (g)* enacted at the 2005–06  
6 Regular Session shall be subject to appropriation through the  
7 budget process and by phase, as provided in Section 366.35.

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

10 366.22. (a) When a case has been continued pursuant to  
11 paragraph (1) of subdivision (g) of Section 366.21, the  
12 permanency review hearing shall occur within 18 months after  
13 the date the child was originally removed from the physical  
14 custody of his or her parent or legal guardian. The court shall  
15 order the return of the child to the physical custody of his or her  
16 parent or legal guardian unless the court finds, by a  
17 preponderance of the evidence, that the return of the child to his  
18 or her parent or legal guardian would create a substantial risk of  
19 detriment to the safety, protection, or physical or emotional  
20 well-being of the child. The social worker shall have the burden  
21 of establishing that detriment. The failure of the parent or legal  
22 guardian to participate regularly and make substantive progress  
23 in court-ordered treatment programs shall be prima facie  
24 evidence that return would be detrimental. In making its  
25 determination, the court shall review and consider the social  
26 worker’s report and recommendations and the report and  
27 recommendations of any child advocate appointed pursuant to  
28 Section 356.5; shall consider the efforts or progress, or both,  
29 demonstrated by the parent or legal guardian and the extent to  
30 which he or she availed himself or herself of services provided;  
31 and shall make appropriate findings pursuant to subdivision (a)  
32 of Section 366.

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

38 If the child is not returned to a parent or legal guardian at the  
39 permanency review hearing, the court shall order that a hearing  
40 be held pursuant to Section 366.26 in order to determine whether

1 adoption, guardianship, or long-term foster care is the most  
2 appropriate plan for the child. However, if the court finds by  
3 clear and convincing evidence, based on the evidence already  
4 presented to it, including a recommendation 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, that there is a  
8 compelling reason, as described in paragraph (2) of subdivision  
9 (g) of Section 366.21, for determining that a hearing held under  
10 Section 366.26 is not in the best interest of the child because the  
11 child is not a proper subject for adoption and has no one willing  
12 to accept legal guardianship, then the court may, only under these  
13 circumstances, order that the child remain in foster care. If the  
14 court orders that a child who is 10 years of age or older remain in  
15 long-term foster care, the court shall determine whether the  
16 agency has made reasonable efforts to maintain the child's  
17 relationships with individuals other than the child's siblings who  
18 are important to the child, consistent with the child's best  
19 interests, and may make any appropriate order to ensure that  
20 those relationships are maintained. The hearing shall be held no  
21 later than 120 days from the date of the permanency review  
22 hearing. The court shall also order termination of reunification  
23 services to the parent or legal guardian. The court shall continue  
24 to permit the parent or legal guardian to visit the child unless it  
25 finds that visitation would be detrimental to the child. The court  
26 shall determine whether reasonable services have been offered or  
27 provided to the parent or legal guardian. For purposes of this  
28 subdivision, evidence of any of the following circumstances shall  
29 not, in and of themselves, be deemed a failure to provide or offer  
30 reasonable services:

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

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

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

39 (b) Whenever a court orders that a hearing pursuant to Section  
40 366.26 shall be held, it shall direct the agency supervising the

1 child and the licensed county adoption agency, or the State  
2 Department of Social Services when it is acting as an adoption  
3 agency in counties that are not served by a county adoption  
4 agency, to prepare an assessment that shall include:

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

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

13 (3) An evaluation of the child’s medical, developmental,  
14 scholastic, mental, and emotional status.

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

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

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

37 (c) This section shall become operative January 1, 1999. If at  
38 any hearing held pursuant to Section 366.26, a legal guardianship  
39 is established for the minor with a relative, and juvenile court  
40 dependency is subsequently dismissed, the relative shall be

1 eligible for aid under the Kin-GAP program as provided in  
2 Article 4.5 (commencing with Section 11360) of Chapter 2 of  
3 Part 3 of Division 9.

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

10 (e) *The implementation and operation of the amendments to*  
11 *subdivision (a) enacted at the 2005-2006 Regular Session shall*  
12 *be subject to appropriation through the budget process and by*  
13 *phase, as provided in Section 366.35.*

14 SEC. 6. Section 366.26 of the Welfare and Institutions Code  
15 is amended to read:

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

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

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

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

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

12 (4) Order that the child be placed in long-term foster care,  
13 subject to the periodic review of the juvenile court under Section  
14 366.3.

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

17 (c) (1) If the court determines, based on the assessment  
18 provided as ordered under subdivision (i) of Section 366.21 or  
19 subdivision (b) of Section 366.22, and any other relevant  
20 evidence, by a clear and convincing standard, that it is likely the  
21 child will be adopted, the court shall terminate parental rights and  
22 order the child placed for adoption. The fact that the child is not  
23 yet placed in a preadoptive home nor with a relative or foster  
24 family who is prepared to adopt the child, shall not constitute a  
25 basis for the court to conclude that it is not likely the child will  
26 be adopted. A finding under subdivision (b) or paragraph (1) of  
27 subdivision (e) of Section 361.5 that reunification services shall  
28 not be offered, under subdivision (e) of Section 366.21 that the  
29 whereabouts of a parent have been unknown for six months or  
30 that the parent has failed to visit or contact the child for six  
31 months or that the parent has been convicted of a felony  
32 indicating parental unfitness, or, under Section 366.21 or 366.22,  
33 that the court has continued to remove the child from the custody  
34 of the parent or guardian and has terminated reunification  
35 services, shall constitute a sufficient basis for termination of  
36 parental rights unless the court finds a compelling reason for  
37 determining that termination would be detrimental to the child  
38 due to one or more of the following circumstances:

1 (A) The parents or guardians have maintained regular  
2 visitation and contact with the child and the child would benefit  
3 from continuing the relationship.

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

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

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

24 (E) There would be substantial interference with a child's  
25 sibling relationship, taking into consideration the nature and  
26 extent of the relationship, including, but not limited to, whether  
27 the child was raised with a sibling in the same home, whether the  
28 child shared significant common experiences or has existing  
29 close and strong bonds with a sibling, and whether ongoing  
30 contact is in the child's best interest, including the child's  
31 long-term emotional interest, as compared to the benefit of legal  
32 permanence through adoption.

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

36 (2) The court shall not terminate parental rights if at each and  
37 every hearing at which the court was required to consider  
38 reasonable efforts or services, the court has found that reasonable  
39 efforts were not made or that reasonable services were not  
40 offered or provided.

1 (3) If the court finds that termination of parental rights would  
2 not be detrimental to the child pursuant to paragraph (1) and that  
3 the child has a probability for adoption but is difficult to place for  
4 adoption and there is no identified or available prospective  
5 adoptive parent, the court may identify adoption as the  
6 permanent placement goal and without terminating parental  
7 rights, order that efforts be made to locate an appropriate  
8 adoptive family for the child within a period not to exceed 180  
9 days. During this 180-day period, the public agency responsible  
10 for seeking adoptive parents for each child shall, to the extent  
11 possible, ask each child who is 10 years of age or older, to  
12 identify any individuals, other than the child's siblings, who are  
13 important to the child, in order to identify potential adoptive  
14 parents. The public agency may ask any other child to provide  
15 that information, as appropriate. During the 180-day period, the  
16 public agency shall, to the extent possible, contact other private  
17 and public adoption agencies regarding the availability of the  
18 child for adoption. During the 180-day period, the public agency  
19 shall conduct the search for adoptive parents in the same manner  
20 as prescribed for children in Sections 8708 and 8709 of the  
21 Family Code. At the expiration of this period, another hearing  
22 shall be held and the court shall proceed pursuant to paragraph  
23 (1) or (3) of subdivision (b). For purposes of this section, a child  
24 may only be found to be difficult to place for adoption if there is  
25 no identified or available prospective adoptive parent for the  
26 child because of the child's membership in a sibling group, or the  
27 presence of a diagnosed medical, physical, or mental handicap,  
28 or the child is the age of seven years or more.

29 (4) (A) If the court finds that adoption of the child or  
30 termination of parental rights is not in the best interest of the  
31 child, because one of the conditions in subparagraph (A), (B),  
32 (C), (D), or (E) of paragraph (1) or in paragraph (2) applies, the  
33 court shall either order that the present caretakers or other  
34 appropriate persons shall become legal guardians of the child or  
35 order that the child remain in long-term foster care. Legal  
36 guardianship shall be considered before long-term foster care, if  
37 it is in the best interests of the child and if a suitable guardian can  
38 be found. A child who is 10 years of age or older, shall be asked  
39 to identify any individuals, other than the child's siblings, who  
40 are important to the child, in order to identify potential guardians.

1 The agency may ask any other child to provide that information,  
2 as appropriate.

3 (B) If the child is living with a relative or a foster parent who  
4 is willing and capable of providing a stable and permanent  
5 environment, but not willing to become a legal guardian, the  
6 child shall not be removed from the home if the court finds the  
7 removal would be seriously detrimental to the emotional  
8 well-being of the child because the child has substantial  
9 psychological ties to the relative caretaker or foster parents.

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

14 (5) If the court finds that the child should not be placed for  
15 adoption, that legal guardianship shall not be established, and  
16 that there are no suitable foster parents except exclusive-use  
17 homes available to provide the child with a stable and permanent  
18 environment, the court may order the care, custody, and control  
19 of the child transferred from the county welfare department to a  
20 licensed foster family agency. The court shall consider the  
21 written recommendation of the county welfare director regarding  
22 the suitability of the transfer. The transfer shall be subject to  
23 further court orders.

24 The licensed foster family agency shall place the child in a  
25 suitable licensed or exclusive-use home that has been certified by  
26 the agency as meeting licensing standards. The licensed foster  
27 family agency shall be responsible for supporting the child and  
28 providing appropriate services to the child, including those  
29 services ordered by the court. Responsibility for the support of  
30 the child shall not, in and of itself, create liability on the part of  
31 the foster family agency to third persons injured by the child.  
32 Those children whose care, custody, and control are transferred  
33 to a foster family agency shall not be eligible for foster care  
34 maintenance payments or child welfare services, except for  
35 emergency response services pursuant to Section 16504.

36 (d) The proceeding for the appointment of a guardian for a  
37 child who is a dependent of the juvenile court shall be in the  
38 juvenile court. If the court finds pursuant to this section that legal  
39 guardianship is the appropriate permanent plan, it shall appoint  
40 the legal guardian and issue letters of guardianship. The

1 assessment prepared pursuant to subdivision (g) of Section 361.5,  
2 subdivision (i) of Section 366.21, and subdivision (b) of Section  
3 366.22 shall be read and considered by the court prior to the  
4 appointment, and this shall be reflected in the minutes of the  
5 court. The person preparing the assessment may be called and  
6 examined by any party to the proceeding.

7 (e) The proceeding for the adoption of a child who is a  
8 dependent of the juvenile court shall be in the juvenile court if  
9 the court finds pursuant to this section that adoption is the  
10 appropriate permanent plan and the petition for adoption is filed  
11 in the juvenile court. Upon the filing of a petition for adoption,  
12 the juvenile court shall order that an adoption hearing be set. The  
13 court shall proceed with the adoption after the appellate rights of  
14 the natural parents have been exhausted. The full report required  
15 by Section 8715 of the Family Code shall be read and considered  
16 by the court prior to the adoption and this shall be reflected in the  
17 minutes of the court. The person preparing the report may be  
18 called and examined by any party to the proceeding. It is the  
19 intent of the Legislature, pursuant to this subdivision, to give  
20 potential adoptive parents the option of filing in the juvenile  
21 court the petition for the adoption of a child who is a dependent  
22 of the juvenile court. Nothing in this section is intended to  
23 prevent the filing of a petition for adoption in any other court as  
24 permitted by law, instead of in the juvenile court.

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

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

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

39 (3) Private counsel appointed under this section shall receive a  
40 reasonable sum for compensation and expenses, the amount of

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

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

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

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

19 (3) (A) The testimony of the child may be taken in chambers  
20 and outside the presence of the child's parent or parents, if the  
21 child's parent or parents are represented by counsel, the counsel  
22 is present, and any of the following circumstances exist:

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

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

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

29 (B) After testimony in chambers, the parent or parents of the  
30 child may elect to have the court reporter read back the testimony  
31 or have the testimony summarized by counsel for the parent or  
32 parents.

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

36 (i) Any order of the court permanently terminating parental  
37 rights under this section shall be conclusive and binding upon the  
38 child, upon the parent or parents and upon all other persons who  
39 have been served with citation by publication or otherwise as  
40 provided in this chapter. After making the order, the court shall

1 have no power to set aside, change, or modify it, but nothing in  
2 this section shall be construed to limit the right to appeal the  
3 order.

4 (j) If the court, by order or judgment, declares the child free  
5 from the custody and control of both parents, or one parent if the  
6 other does not have custody and control, the court shall at the  
7 same time order the child referred to the State Department of  
8 Social Services or a licensed adoption agency for adoptive  
9 placement by the agency. However, a petition for adoption may  
10 not be granted until the appellate rights of the natural parents  
11 have been exhausted. The State Department of Social Services or  
12 licensed adoption agency shall be responsible for the custody and  
13 supervision of the child and shall be entitled to the exclusive care  
14 and control of the child at all times until a petition for adoption is  
15 granted. With the consent of the agency, the court may appoint a  
16 guardian of the child, who shall serve until the child is adopted.

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

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

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

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

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

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

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

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

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

16 (B) The prompt transmittal of the records from the trial court  
17 to the appellate court.

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

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

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

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

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

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

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

36 (n) *The implementation and operation of the amendments to*  
37 *paragraph (3) of subdivision (c) and subparagraph (A) of*  
38 *paragraph (4) of subdivision (c) enacted at the 2005-06 Regular*  
39 *Session shall be subject to appropriation through the budget*  
40 *process and by phase, as provided in Section 366.35.*

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

3 366.3. (a) If a juvenile court orders a permanent plan of  
4 adoption or legal guardianship pursuant to Section 360 or 366.26,  
5 the court shall retain jurisdiction over the child until the child is  
6 adopted or the legal guardianship is established, except as  
7 provided for in Section 366.29. The status of the child shall be  
8 reviewed every six months to ensure that the adoption or legal  
9 guardianship is completed as expeditiously as possible. When the  
10 adoption of the child has been granted, the court shall terminate  
11 its jurisdiction over the child. Following establishment of a legal  
12 guardianship, the court may continue jurisdiction over the child  
13 as a dependent child of the juvenile court or may terminate its  
14 dependency jurisdiction and retain jurisdiction over the child as a  
15 ward of the legal guardianship, as authorized by Section 366.4.  
16 If, however, a relative of the child is appointed the legal guardian  
17 of the child and the child has been placed with the relative for at  
18 least 12 months, the court shall, except if the relative guardian  
19 objects, or upon a finding of exceptional circumstances,  
20 terminate its dependency jurisdiction and retain jurisdiction over  
21 the child as a ward of the guardianship, as authorized by Section  
22 366.4. Following a termination of parental rights, the parent or  
23 parents shall not be a party to, or receive notice of, any  
24 subsequent proceedings regarding the child.

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

34 Notwithstanding Section 1601 of the Probate Code, the  
35 proceedings to terminate a legal guardianship that has been  
36 granted pursuant to Section 360 or 366.26 shall be held in the  
37 juvenile court, unless the termination is due to the emancipation  
38 or adoption of the child. Prior to the hearing on a petition to  
39 terminate legal guardianship pursuant to this paragraph, the court  
40 shall order the county department of social services or welfare

1 department to prepare a report, for the court's consideration, that  
2 shall include an evaluation of whether the child could safely  
3 remain in the legal guardian's home, without terminating the  
4 legal guardianship, if services were provided to the child or legal  
5 guardian. If applicable, the report shall also identify  
6 recommended services to maintain the legal guardianship and set  
7 forth a plan for providing those services. If the petition to  
8 terminate legal guardianship is granted, the juvenile court may  
9 resume dependency jurisdiction over the child, and may order the  
10 county department of social services or welfare department to  
11 develop a new permanent plan, which shall be presented to the  
12 court within 60 days of the termination. If no dependency  
13 jurisdiction has attached, the social worker shall make any  
14 investigation he or she deems necessary to determine whether the  
15 child may be within the jurisdiction of the juvenile court, as  
16 provided in Section 328.

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

28 (c) If, following the establishment of a legal guardianship, the  
29 county welfare department becomes aware of changed  
30 circumstances that indicate adoption may be an appropriate plan  
31 for the child, the department shall so notify the court. The court  
32 may vacate its previous order dismissing dependency jurisdiction  
33 over the child and order that a hearing be held pursuant to  
34 Section 366.26 to determine whether adoption or continued legal  
35 guardianship is the most appropriate plan for the child. The  
36 hearing shall be held no later than 120 days from the date of the  
37 order. If the court orders that a hearing shall be held pursuant to  
38 Section 366.26, the court shall direct the agency supervising the  
39 child and the licensed county adoption agency, or the State  
40 Department of Social Services if it is acting as an adoption

1 agency in counties that are not served by a county adoption  
2 agency, to prepare an assessment under subdivision (b) of  
3 Section 366.22.

4 (d) If the child is in a placement other than the home of a legal  
5 guardian and jurisdiction has not been dismissed, the status of the  
6 child shall be reviewed at least every six months. The review of  
7 the status of a child for whom the court has ordered parental  
8 rights terminated and who has been ordered placed for adoption  
9 shall be conducted by the court. The review of the status of a  
10 child for whom the court has not ordered parental rights  
11 terminated and who has not been ordered placed for adoption  
12 may be conducted by the court or an appropriate local agency.  
13 The court shall conduct the review under the following  
14 circumstances:

15 (1) Upon the request of the child’s parents or legal guardians.

16 (2) Upon the request of the child.

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

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

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

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

31 (1) The continuing necessity for and appropriateness of the  
32 placement.

33 (2) Identification of individuals other than the child’s siblings  
34 who are important to a child who is 10 years of age or older and  
35 has been in out-of-home placement for six months or longer, and  
36 actions necessary to maintain the child’s relationship with those  
37 individuals, provided that those relationships are in the best  
38 interest of the child. The social worker shall ask every child who  
39 is 10 years of age or older and who has been in out-of-home  
40 placement for six months or longer to identify individuals other

1 than the child's siblings who are important to the child, and may  
2 ask any other child to provide that information, as appropriate.  
3 The social worker shall make efforts to identify other individuals  
4 who are important to the child, consistent with the child's best  
5 interests.

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

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

18 (5) Whether there should be any limitation on the right of the  
19 parent or guardian to make educational decisions for the child.  
20 That limitation shall be specifically addressed in the court order  
21 and may not exceed what is necessary to protect the child. If the  
22 court specifically limits the right of the parent or guardian to  
23 make educational decisions for the child, the court shall at the  
24 same time appoint a responsible adult to make educational  
25 decisions for the child pursuant to Section 361.

26 (6) The adequacy of services provided to the child. The court  
27 shall consider the progress in providing the information and  
28 documents to the child, as described in Section 391. The court  
29 shall also consider the need for, and progress in providing, the  
30 assistance and services described in paragraphs (3) and (4) of  
31 subdivision (b) of Section 391.

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

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

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

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

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

5 (C) If the siblings are not placed together in the same home,  
6 why the siblings are not placed together and what efforts are  
7 being made to place the siblings together, or why those efforts  
8 are not appropriate.

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

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

13 The factors the court may consider as indicators of the nature  
14 of the child's sibling relationships include, but are not limited to,  
15 whether the siblings were raised together in the same home,  
16 whether the siblings have shared significant common experiences  
17 or have existing close and strong bonds, whether either sibling  
18 expresses a desire to visit or live with his or her sibling, as  
19 applicable, and whether ongoing contact is in the child's best  
20 emotional interests.

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

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

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

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

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

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

8 (1) The child's present placement.

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

11 (3) If the child has not been placed with a prospective adoptive  
12 parent or guardian, identification of individuals, other than the  
13 child's siblings, who are important to the child and actions  
14 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 agency shall ask every child who is 10  
17 years of age or older to identify any individuals who are  
18 important to him or her, consistent with the child's best interest,  
19 and may ask any child who is younger than 10 years of age to  
20 provide that information as appropriate. The agency shall make  
21 efforts to identify other individuals who are important to the  
22 child.

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

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

27 (6) If the child has not been placed with a prospective adoptive  
28 parent or parents, the efforts made to identify an appropriate  
29 prospective adoptive parent or legal guardian, including, but not  
30 limited to, child-specific recruitment efforts and listing on an  
31 adoption exchange.

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

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

36 (9) Any impediments to the adoption or the adoptive  
37 placement.

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

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

3 (12) Recommendations for court orders that will assist in the  
4 placement of the child for adoption or in the finalization of the  
5 adoption.

6 The court shall determine whether or not reasonable efforts to  
7 make and finalize a permanent placement for the child have been  
8 made.

9 The court shall make appropriate orders to protect the stability  
10 of the child and to facilitate and expedite the permanent  
11 placement and adoption of the child.

12 (g) At the review held pursuant to subdivision (d) for a child in  
13 long-term foster care, the court shall consider all permanency  
14 planning options for the child including whether the child should  
15 be returned to the home of the parent, placed for adoption, or  
16 appointed a legal guardian, or, if compelling reasons exist for  
17 finding that none of the foregoing options are in the best interest  
18 of the child, whether the child should be placed in another  
19 planned permanent living arrangement. The court shall order that  
20 a hearing be held pursuant to Section 366.26 unless it determines  
21 by clear and convincing evidence, that there is a compelling  
22 reason for determining that a hearing held pursuant to Section  
23 366.26 is not in the best interest of the child because the child is  
24 being returned to the home of the parent, the child is not a proper  
25 subject for adoption, or no one is willing to accept legal  
26 guardianship. If the licensed county adoption agency, or the  
27 department when it is acting as an adoption agency in counties  
28 that are not served by a county adoption agency, has determined  
29 it is unlikely that the child will be adopted or one of the  
30 conditions described in paragraph (1) of subdivision (c) of  
31 Section 366.26 applies, that fact shall constitute a compelling  
32 reason for purposes of this subdivision. Only upon that  
33 determination may the court order that the child remain in foster  
34 care, without holding a hearing pursuant to Section 366.26.

35 (h) If, as authorized by subdivision (g), the court orders a  
36 hearing pursuant to Section 366.26, the court shall direct the  
37 agency supervising the child and the licensed county adoption  
38 agency, or the State Department of Social Services when it is  
39 acting as an adoption agency in counties that are not served by a  
40 county adoption agency, to prepare an assessment as provided for

1 in subdivision (i) of Section 366.21 or subdivision (b) of Section  
2 366.22. A hearing held pursuant to Section 366.26 shall be held  
3 no later than 120 days from the date of the 12-month review at  
4 which it is ordered, and at that hearing the court shall determine  
5 whether adoption, legal guardianship, or long-term foster care is  
6 the most appropriate plan for the child.

7 (i) The implementation and operation of the amendments to  
8 ~~this section~~ *subdivision (e)* enacted at the 2005-06 Regular  
9 Session shall be subject to appropriation through the budget  
10 process and by phase, as provided in Section 366.35.

11 SEC. 8. Section 366.35 is added to the Welfare and  
12 Institutions Code, to read:

13 366.35. (a) The implementation and operation of the  
14 amendments to ~~Sections 366, 366.1, 366.21, 366.3, and 16501.1~~  
15 *subparagraph (B) of paragraph (1) of subdivision (a) of Section*  
16 *366, subdivision (g) of Section 366.1, subdivisions (c) and (g) of*  
17 *Section 366.21, subdivision (a) of Section 366.22, paragraph (3)*  
18 *of, and subparagraph (A) of paragraph (4) of, subdivision (c) of*  
19 *Section 366.26, paragraphs (2) and (3) of subdivision (e) of*  
20 *Section 366.3, and subdivision (i) of Section 16501.1* enacted at  
21 the 2005–06 Regular Session shall be phased in, consistent with  
22 the child’s best interests, as follows:

23 (1) The first phase of expansion shall apply to a child who is  
24 10 years of age or older and placed with a nonrelative *for six*  
25 *months or longer*.

26 (2) The second phase of expansion shall apply to a child who  
27 is 10 years of age or older and placed with a nonrelative or in  
28 permanent placement relative care *for six months or longer*.

29 (3) The final phase of expansion shall apply to a child who is  
30 10 years of age or older and who has been in out-of-home  
31 placement for six months or longer.

32 (b) All phases of subdivision (a) shall be subject to  
33 appropriation through the budget process. Those appropriations  
34 shall apply only to the state’s share of costs. Counties shall  
35 remain responsible for their nonfederal share of costs.

36 SEC. 9. Section 16001.9 of the Welfare and Institutions Code  
37 is amended to read:

38 16001.9. (a) It is the policy of the state that all children in  
39 foster care shall have the following rights:

- 1 (1) To live in a safe, healthy, and comfortable home where he  
2 or she is treated with respect.
- 3 (2) To be free from physical, sexual, emotional, or other  
4 abuse, or corporal punishment.
- 5 (3) To receive adequate and healthy food, adequate clothing,  
6 and, for youth in group homes, an allowance.
- 7 (4) To receive medical, dental, vision, and mental health  
8 services.
- 9 (5) To be free of the administration of medication or chemical  
10 substances, unless authorized by a physician.
- 11 (6) To contact family members, unless prohibited by court  
12 order, and social workers, attorneys, foster youth advocates and  
13 supporters, Court Appointed Special Advocates (CASA), and  
14 probation officers.
- 15 (7) To visit and contact brothers and sisters, unless prohibited  
16 by court order.
- 17 (8) To contact the Community Care Licensing Division of the  
18 State Department of Social Services or the State Foster Care  
19 Ombudsperson regarding violations of rights, to speak to  
20 representatives of these offices confidentially, and to be free  
21 from threats or punishment for making complaints.
- 22 (9) To make and receive confidential telephone calls and send  
23 and receive unopened mail, unless prohibited by court order.
- 24 (10) To attend religious services and activities of his or her  
25 choice.
- 26 (11) To maintain an emancipation bank account and manage  
27 personal income, consistent with the child's age and  
28 developmental level, unless prohibited by the case plan.
- 29 (12) To not be locked in any room, building, or facility  
30 premises, unless placed in a community treatment facility.
- 31 (13) To attend school and participate in extracurricular,  
32 cultural, and personal enrichment activities, consistent with the  
33 child's age and developmental level.
- 34 (14) To work and develop job skills at an age-appropriate level  
35 ~~that is~~, consistent with state law.
- 36 (15) To have social contacts with people outside of the foster  
37 care system, such as teachers, church members, mentors, and  
38 friends.
- 39 (16) To attend Independent Living Program classes and  
40 activities if he or she meets age requirements.

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

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

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

5 (20) To review his or her own case plan and plan for  
6 permanent placement if he or she is 12 years of age or older and  
7 in a permanent placement, and to receive information about his  
8 or her out-of-home placement and case plan, including being told  
9 of changes to the plan.

10 (21) To be free from unreasonable searches of personal  
11 belongings.

12 (22) To confidentiality of all juvenile court records consistent  
13 with existing law.

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

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

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

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

33 SEC. 10. Section 16500.1 of the Welfare and Institutions  
34 Code is amended to read:

35 16500.1. (a) It is the intent of the Legislature to use the  
36 strengths of families and communities to serve the needs of  
37 children who are alleged to be abused or neglected, as described  
38 in Section 300, to reduce the necessity for removing these  
39 children from their home, to encourage speedy reunification of  
40 families when it can be safely accomplished, to locate permanent

1 homes and families for children who cannot return to their  
2 biological families, to reduce the number of placements  
3 experienced by these children, to ensure that children leaving the  
4 foster care system have support within their communities, to  
5 improve the quality and homelike nature of out-of-home care,  
6 and to foster the educational progress of children in out-of-home  
7 care.

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

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

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

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

17 (4) Use team decisionmaking in case planning.

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

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

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

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

25 (9) Use community resources, including community-based  
26 agencies and volunteer organizations, to assist in developing  
27 placements for children and to provide support for children and  
28 their families.

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

31 (11) Ensure that no child leaves foster care without a lifelong  
32 connection to a committed adult.

33 (12) Ensure that children are actively involved in the case plan  
34 and permanency planning process.

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

37 (1) Consider the existing array of program models provided in  
38 statute and in practice, including, but not limited to, wraparound  
39 services, as defined in Section 18251, children's systems of care,  
40 as provided for in Section 5852, the Oregon Family Unity or

1 Santa Clara County Family Conference models, which include  
2 family conferences at key points in the casework process, such as  
3 when out-of-home placement or return home are considered, and  
4 the Annie E. Casey Foundation Family to Family initiative,  
5 which uses team decisionmaking in case planning,  
6 community-based placement practices requiring that children be  
7 placed in foster care in the communities where they resided prior  
8 to placement, and involve foster families as team members in  
9 family reunification efforts.

10 (2) Ensure that emergency response services, family  
11 maintenance services, family reunification services, and  
12 permanent placement services are coordinated with the  
13 implementation of the models described in paragraph (1).

14 (3) Ensure consistency between child welfare services  
15 program regulations and the program models described in  
16 paragraph (1).

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

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

30 SEC. 11. Section 16501.1 of the Welfare and Institutions  
31 Code is amended to read:

32 16501.1. (a) (1) The Legislature finds and declares that the  
33 foundation and central unifying tool in child welfare services is  
34 the case plan.

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

1 the child, and to address the needs of the child while in foster  
2 care.

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

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

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

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

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

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

37 (d) A written case plan shall be completed within a maximum  
38 of 60 days of the initial removal of the child or of the in-person  
39 response required under subdivision (f) of Section 16501 if the  
40 child has not been removed from his or her home, or by the date

1 of the dispositional hearing pursuant to Section 358, whichever  
2 occurs first. The case plan shall be updated, as the service needs  
3 of the child and family dictate. At a minimum, the case plan shall  
4 be updated in conjunction with each status review hearing  
5 conducted pursuant to Section 366.21, and the hearing conducted  
6 pursuant to Section 366.26, but no less frequently than once  
7 every six months. Each updated case plan shall include a  
8 description of the services that have been provided to the child  
9 under the plan and an evaluation of the appropriateness and  
10 effectiveness of those services.

11 (1) It is the intent of the Legislature that extending the  
12 maximum time available for preparing a written case plan from  
13 30 to 60 days will afford caseworkers time to actively engage  
14 families, and to solicit and integrate into the case plan the input  
15 of the child and the child's family, as well as the input of  
16 relatives and other interested parties.

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

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

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

28 (1) The case plan shall be based upon an assessment of the  
29 circumstances that required child welfare services intervention.  
30 The child shall be involved in developing the case plan as age  
31 and developmentally appropriate.

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

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

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

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

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

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

1 social worker shall determine the appropriate means and setting  
2 for disclosure of this information to the child commensurate with  
3 the child's age and emotional well-being. These significant life  
4 events shall include, but shall not be limited to, the following:

5 (A) The death of an immediate relative.

6 (B) The birth of a sibling.

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

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

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

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

37 (9) If out-of-home services are used and the goal is  
38 reunification, the case plan shall describe the services to be  
39 provided to assist in reunification and the services to be provided  
40 concurrently to achieve legal permanency if efforts to reunify

1 fail. The plan shall also consider the importance of developing  
2 and maintaining sibling relationships pursuant to Section 16002,  
3 and the desire and willingness of the caregiver to provide legal  
4 permanency for the child if reunification is unsuccessful.

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

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

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

33 (12) A child shall be given a meaningful opportunity to  
34 participate in the development of the case plan and state his or  
35 her preference for ~~residential~~ *foster care* placement. A child who  
36 is 12 years of age or older and in a permanent placement shall  
37 also be given the opportunity to review the case plan, sign the  
38 case plan, and receive a copy of the case plan.

39 (13) The case plan shall be included in the court report and  
40 shall be considered by the court at the initial hearing and each

1 review hearing. Modifications to the case plan made during the  
2 period between review hearings need not be approved by the  
3 court if the casework supervisor for that case determines that the  
4 modifications further the goals of the plan. If out-of-home  
5 services are used with the goal of family reunification, the case  
6 plan shall consider and describe the application of subdivision (b)  
7 of Section 11203.

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

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

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

38 (h) The case plan documentation on sibling placements  
39 required under this section shall not require modification of

1 existing case plan forms until the Child Welfare Services Case  
2 Management System is implemented on a statewide basis.

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

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

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

26 (l) The implementation and operation of the amendments to  
27 subdivision (i) enacted at the 2005–06 Regular Session shall be  
28 subject to appropriation through the budget process and by phase,  
29 as provided in Section 366.35.

30 SEC. 12. If the Commission on State Mandates determines  
31 that this act contains costs mandated by the state, reimbursement  
32 to local agencies and school districts for those costs shall be  
33 made pursuant to Part 7 (commencing with Section 17500) of  
34 Division 4 of Title 2 of the Government Code.

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