

AMENDED IN SENATE AUGUST 7, 2006

AMENDED IN SENATE JUNE 19, 2006

AMENDED IN ASSEMBLY MARCH 27, 2006

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 2161

Introduced by Assembly Member Hancock

February 21, 2006

An act to amend Section 8712 of the Family Code, and to add Sections 16519 and 16519.5 to the Welfare and Institutions Code, relating to public social services, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 2161, as amended, Hancock. Child welfare services: resource family pilot program.

Existing law requires the placement of dependent children by the juvenile court according to specified procedures. Existing law requires the state, through the State Department of Social Services and county welfare departments, to establish and support a system of statewide child welfare, which includes services related to foster care placement of dependent children and adoption. Existing law provides for the licensure of foster care providers, and the approval of adoptive parents.

This bill would require the State Department of Social Services, in consultation with county welfare agencies, to implement a pilot program to establish a unified resource family approval process to replace the existing multiple processes for licensing foster family homes, approving relatives and nonrelated extended family members

as foster care providers, and approving adoptive families, as provided in the bill. The bill would define a resource family for its purposes as an individual or couple that a participating county has approved to care for a related or unrelated child who is under the jurisdiction of the juvenile court or otherwise in the care of a county child welfare agency.

This bill would require the department to, prior to implementing the pilot program, promulgate standards for home approval and permanency assessment for placing children in a resource family.

This bill would require the pilot program to be conducted in up to 5 counties that volunteer to participate. It would authorize the pilot program to continue through the 2009–10 fiscal year, or for 3 full fiscal years following the receipt of funding for the program, whichever is later.

Existing law establishes the Aid to Families with Dependent Children-Foster Care (AFDC-FC) program, under which counties provide payments to foster care providers on behalf of qualified children in foster care. The program is funded by a combination of federal, state, and county funds, with moneys from the General Fund being continuously appropriated to pay for the state's share of AFDC-FC costs. Existing law requires that a child be in one of 7 designated placements in order to be eligible for AFDC-FC.

This bill also would require a child placed in a resource family home that meets specified standards to be eligible for AFDC-FC. By expanding eligibility standards for AFDC-FC benefits, this bill would make an appropriation. The bill would provide that a resource family be paid a specified AFDC-FC rate, and would apply existing sharing ratios for state financial participation.

This bill would make its implementation contingent upon the continued availability of federal funds for costs associated with the placement of children with resource families as provided in the bill.

The bill would also set forth specified responsibilities for the department and counties participating in the pilot program for implementing and enforcing standards provided in the bill.

Existing law requires the State Department of Social Services or licensed adoption agency to require each person filing an application for adoption to be fingerprinted, and to secure from an appropriate law enforcement agency any criminal record of that person to determine whether the person has ever been convicted of a crime other than a minor traffic violation, and authorizes the department or

a licensed adoption agency to secure the person's full criminal record, if any.

This bill would require that any federal level criminal offender record requests submitted to the Department of Justice be submitted with fingerprint images and related information required by the Department of Justice, as specified. The bill would require the Department of Justice to forward any such record requests received pursuant to those provisions to the Federal Bureau of Investigation (FBI), to review the information returned to the department from the FBI, and to compile and disseminate a response to the State Department of Social Services or to the licensed adoption agency.

Vote: $\frac{2}{3}$. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: no.

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

1 SECTION 1. Section 8712 of the Family Code is amended to
2 read:
3 8712. (a) The department or licensed adoption agency shall
4 require each person filing an application for adoption to be
5 fingerprinted and shall secure from an appropriate law
6 enforcement agency any criminal record of that person to
7 determine whether the person has ever been convicted of a crime
8 other than a minor traffic violation. The department or a licensed
9 adoption agency may also secure the person's full criminal
10 record, if any. *Any federal level criminal offender record*
11 *requests to the Department of Justice shall be submitted with*
12 *fingerprint images and related information required by the*
13 *Department of Justice for the purposes of obtaining information*
14 *as to the existence and content of a record of an out-of-state or*
15 *federal conviction or arrest of a person or information regarding*
16 *any out-of-state or federal crimes or arrests for which the*
17 *Department of Justice establishes that the person is free on bail,*
18 *or on his or her own recognizance pending trial or appeal. The*
19 *Department of Justice shall forward to the Federal Bureau of*
20 *Investigation any such requests for federal summary criminal*
21 *history information received pursuant to this section. The*
22 *Department of Justice shall review the information returned from*
23 *the Federal Bureau of Investigation and shall compile and*

1 *disseminate a response to the department or a licensed adoption*
2 *agency.*

3 (b) The criminal record, if any, shall be taken into
4 consideration when evaluating the prospective adoptive parent,
5 and an assessment of the effects of any criminal history on the
6 ability of the prospective adoptive parent to provide adequate and
7 proper care and guidance to the child shall be included in the
8 report to the court.

9 (c) Any fee charged by a law enforcement agency for
10 fingerprinting or for checking or obtaining the criminal record of
11 the applicant shall be paid by the applicant. The department or
12 licensed adoption agency may defer, waive, or reduce the fee
13 when its payment would cause economic hardship to prospective
14 adoptive parents detrimental to the welfare of the adopted child,
15 when the child has been in the foster care of the prospective
16 adoptive parents for at least one year, or if necessary for the
17 placement of a special-needs child.

18 **SECTION 1.**

19 **SEC. 2.** Section 16519 is added to the Welfare and
20 Institutions Code, to read:

21 16519. The Legislature finds and declares the following:

22 (a) Safety, permanency, and well-being are crucial for the
23 more than 82,000 California children in foster care, and are
24 paramount to achieving both federal and state child welfare
25 system improvement goals. Foster children need safe homes with
26 permanent connections to family or other caring adults. The
27 current licensing and approval system, which screens families to
28 care for foster children, fails to support these outcomes.

29 (b) Children in foster care live in a variety of out-of-home care
30 settings: licensed foster family homes, approved relative and
31 nonrelated extended family member homes, foster family
32 agencies, and group homes. All of these placement types,
33 considered facilities under current law, are required to meet the
34 respective health and safety standards in order to be licensed or
35 approved. This has produced administrative inefficiencies and
36 confusion among stakeholders, and has contributed to difficulty
37 in recruiting suitable foster family homes for children in
38 out-of-home care. Increasing the number of available suitable
39 homes will improve the likelihood that the best home will be
40 initially identified to meet a child's particular needs.

1 (c) Child safety and well-being are not achieved solely by
2 ensuring that the home the child is placed in is free from physical
3 hazards and that adults living in the home do not have
4 disqualifying criminal convictions or past reports of child abuse.
5 Child safety and well-being are also dependent upon
6 consideration of the resource family's psychosocial history that
7 includes physical health, mental health, alcohol and substance
8 abuse, family violence or abuse, and experience caring for
9 children.

10 (d) Research shows that children in out-of-home care placed
11 with relatives and nonrelated extended family members are more
12 stable, more likely to be placed with siblings, and more likely to
13 stay connected to their community and extended family.
14 California statutory and regulatory provisions should maximize
15 the likelihood that a child will initially be placed in the care of a
16 safe relative or nonrelated extended family member who is
17 willing to provide permanent care if reunification cannot be
18 achieved.

19 (e) Families living in the same neighborhood as a family from
20 which a child has been removed are often best suited to provide
21 for the immediate placement needs of that child.

22 (f) Families who provide care to children in out-of-home
23 placement are a valuable resource to the people of this state and
24 to the children for whom they provide care.

25 ~~SEC. 2.~~

26 *SEC. 3.* Section 16519.5 is added to the Welfare and
27 Institutions Code, to read:

28 16519.5. (a) The State Department of Social Services, in
29 consultation with county child welfare agencies, foster parent
30 associations, and other interested community parties, shall
31 implement a pilot program to establish a unified, family friendly,
32 and child-centered resource family approval process to replace
33 the existing multiple processes for licensing foster family homes,
34 approving relatives and nonrelated extended family members as
35 foster care providers, and approving adoptive families.

36 (b) Up to five counties shall be selected to participate on a
37 voluntary basis in the pilot program, according to criteria
38 developed by the department in consultation with the County
39 Welfare Directors Association. In selecting the pilot counties, the

1 department shall promote diversity among the participating
2 counties in terms of size and geographic location.

3 (c) (1) For the purposes of this section, “resource family”
4 means an individual or couple that a participating county
5 determines to have successfully met both the *home* approval
6 standards and the permanency assessment criteria adopted
7 pursuant to subdivision (d) necessary for providing care for a
8 related or unrelated child who is under the jurisdiction of the
9 juvenile court, or otherwise in the care of a county child welfare
10 agency. A resource family shall demonstrate all of the following:

11 (A) An understanding of the safety, permanence, and
12 well-being needs of children who have been victims of child
13 abuse and neglect, and the capacity and willingness to meet those
14 needs, including the need for protection, and the willingness to
15 make use of support resources offered by the agency, or a
16 support structure in place, or both.

17 (B) An understanding of children’s needs and development,
18 effective parenting skills or knowledge about parenting, and the
19 capacity to act as a prudent parent in routine decisionmaking.

20 (C) An understanding of his or her role as a resource family
21 and the capacity to work cooperatively with the agency in
22 implementing the child’s case plan.

23 (D) The financial ability within the household to ensure the
24 stability and financial security of the family.

25 (2) Subsequent to meeting the criteria set forth in *this*
26 subdivision-(a) and designation as a resource family, a resource
27 family shall be considered eligible to provide foster care for
28 related and unrelated children in out-of-home placement, shall be
29 considered approved for adoption or guardianship, and shall not
30 have to undergo any additional approval or licensure as long as
31 the family lives in a county participating in the pilot program.

32 (3) Resource family assessment and approval means that the
33 applicant meets the standard for home approval, and has
34 successfully completed a permanency assessment. This approval
35 is in lieu of the existing foster care license, relative or nonrelated
36 extended family member approval, and the adoption home study
37 approval.

38 (4) Approval of a resource family does not guarantee an initial
39 or continued placement of a child with a resource family.

1 (d) Prior to implementation of this pilot program, the
2 department shall adopt standards pertaining to home approval
3 and permanency assessment of a resource family.

4 (1) Resource family home approval standards shall include,
5 but not be limited to, all of the following:

6 (A) (i) Criminal records clearance of all adults residing in the
7 home, pursuant to Section 8712 of the Family Code, utilizing *the*
8 *California Law Enforcement Telecommunications System*
9 *(CLETS) pursuant to Section 11170 of the Penal Code*, a check
10 of the Child Abuse Central Index (CACI), a check of the Child
11 Welfare Services Case Management System ~~(CWS/CMS), and~~
12 ~~receipt of LiveScan, unless an exemption is granted.~~
13 *(CWS/CMS), receipt of a fingerprint-based state criminal*
14 *offender record information search response, and submission of*
15 *a fingerprint-based federal criminal offender record information*
16 *search.*

17 (ii) Consideration of any prior allegations of child abuse or
18 neglect against either the applicant or any other adult residing in
19 the home. An approval may not be granted to applicants whose
20 criminal record indicates a conviction for any of the offenses
21 specified in clause (i) of subparagraph (A) of paragraph (1) of
22 subdivision (g) of Section 1522 of the Health and Safety Code.

23 (iii) Exemptions from the criminal records clearance
24 requirements set forth in this section may be granted by the
25 director *or the pilot county, if that county has been granted*
26 *permission by the director to issue criminal records exemptions*
27 *pursuant to Section 316.4*, using the exemption criteria currently
28 used for foster care licensing as specified in subdivision (g) of
29 Section 1522 of the Health and Safety Code.

30 (B) Buildings and grounds, outdoor activity space, and storage
31 requirements set forth in Sections 89387, 89387.1, and 89387.2
32 of Title 22 of the California Code of Regulations.

33 (C) In addition to the foregoing requirements, the resource
34 family home approval standards shall also require the following:

35 (i) That the applicant demonstrate an understanding about the
36 rights of children in care and his or her responsibility to
37 safeguard those rights.

38 (ii) That the total number of children residing in the home of a
39 resource family shall be no more than the total number of
40 children the resource family can properly care for, regardless of

1 status, and shall not exceed six children, unless exceptional
2 circumstances that are documented in the foster child's case file
3 exist to permit a resource family to care for more children,
4 including but not limited to, the need to place siblings together.

5 (D) The results of a caregiver risk assessment are consistent
6 with the factors listed in subparagraphs (A) to (D), inclusive, of
7 paragraph (1) of subdivision (c). A caregiver risk assessment
8 shall include, but not be limited to, physical and mental health,
9 alcohol and other substance use and abuse, and family and
10 domestic violence.

11 (2) The resource family permanency assessment standards
12 shall include, but not be limited to, all of the following:

13 (A) The applicant shall complete caregiver training.

14 (B) The applicant shall complete a ~~psychological~~ *psychosocial*
15 evaluation.

16 (C) The applicant shall complete any other activities that relate
17 to a resource family's ability to achieve permanency with the
18 child.

19 (e) (1) A child may be placed with a resource family that has
20 received home approval prior to completion of a permanency
21 assessment only if a compelling reason for the placement exists
22 based on the needs of the child.

23 (2) The permanency assessment shall be completed within 90
24 days of the child's placement in the approved home, unless good
25 cause exists based upon the needs of the child.

26 (3) If additional time is needed to complete the permanency
27 assessment, the county shall document the extenuating
28 circumstances for the delay and generate a timeframe for the
29 completion of the permanency assessment.

30 (4) The county shall report to the department on a quarterly
31 basis the number of families with a child in an approved home
32 whose permanency assessment goes beyond 90 days and
33 summarize the reasons for these delays.

34 (5) A child may be placed with a relative, as defined in
35 Section 319, or nonrelated extended family member, as defined
36 in Section 362.7, prior to home approval and completion of the
37 permanency assessment only on an emergency basis if all of the
38 following requirements are met:

39 (A) Consideration of the results of a criminal records check
40 conducted pursuant to Section 16504.5 of the relative or

1 nonrelative extended family member and of every other adult in
2 the home.

3 (B) Consideration of the results of the Child Abuse Central
4 Index (CACI) consistent with Section 1522.1 of the Health and
5 Safety Code of the relative or nonrelative extended family
6 member, and of every other adult in the home.

7 (C) The home and grounds are free of conditions that pose
8 undue risk to the health and safety of the child.

9 (D) For any placement made pursuant to this paragraph, the
10 county shall initiate the home approval process no later than five
11 business days after the placement, which shall include a
12 face-to-face interview with the resource family applicant and
13 child.

14 (E) For any placement made pursuant to this paragraph,
15 AFDC-FC funding shall not be available until the home has been
16 approved.

17 (F) Any child placed under this section shall be afforded all
18 the rights set forth in Section 16001.9.

19 (f) The State Department of Social Services shall be
20 responsible for all of the following:

21 (1) Selecting pilot counties, based on criteria established by
22 the department in consultation with the County Welfare Directors
23 Association.

24 (2) Establishing timeframes for participating counties to
25 submit an implementation plan, enter into terms and conditions
26 for participation in the pilot program, train appropriate staff, and
27 accept applications from resource families.

28 (3) Entering into terms and conditions for participation in the
29 pilot by counties.

30 (4) Administering the pilot through the issuance of written
31 directives that shall have the same force and effect as regulations.
32 The directives shall be exempt from the rulemaking provisions of
33 the Administrative Procedure Act (Chapter 3.5 (commencing
34 with Section 11340)) of Part 1 of Division 3 of Title 2 of the
35 Government Code.

36 (5) Approving and requiring the use of a single standard for
37 resource family home approval and permanency assessment.

38 (6) Adopting and requiring the use of standardized
39 documentation for the home approval and permanency
40 assessment of resource families.

(7) Requiring counties to monitor resource families including, but not limited to, all of the following:

(A) Investigating complaints of resource families.

(B) Developing and monitoring resource family corrective action plans to correct identified deficiencies and to rescind resource family approval if compliance with corrective action plans is not achieved.

(8) Ongoing oversight and monitoring of county systems and operations including all of the following:

(A) Reviewing the county's implementation of the pilot program.

(B) Reviewing an adequate number of approved resource families in each participating county to ensure that approval standards are being properly applied. The review shall include case file documentation, and may include onsite inspection of individual resource families. The review shall occur on an annual basis, and more frequently if the department becomes aware that a participating county is experiencing a disproportionate number of complaints against individual resource family homes.

(C) Reviewing county reports of serious complaints and incidents involving approved resource families, as determined necessary by the department. The department may conduct an independent review of the complaint or incident and change the findings depending on the results of its investigation.

(D) Investigating unresolved complaints against participating counties.

(E) Requiring corrective action of counties that are not in full compliance with the terms and conditions of the pilot program.

(9) Terminating the participation of any county that fails to make corrective action or who otherwise violates the terms and conditions of participation in the pilot.

(10) Preparing or having prepared within 180 days after the conclusion of the pilot a report on the results of the pilot. The report shall include all of the following:

(A) An analysis, utilizing available data, of state and federal data indicators related to the length of time to permanency including reunification, guardianship and adoption, child safety factors, and placement stability.

(B) An analysis of resource family recruitment and retention elements, including resource family satisfaction with approval

1 processes and changes regarding the population of available
2 resource families.

3 (C) An analysis of cost, utilizing available data, including
4 funding sources.

5 (D) An analysis of regulatory or statutory barriers to
6 implementing the pilot program on a statewide basis.

7 (g) Counties participating in the pilot shall be responsible for
8 all of the following:

9 (1) Submitting an implementation plan, entering into terms
10 and conditions for participation in the pilot, training appropriate
11 staff, and accepting applications from resource families within
12 the timeframes established by the department.

13 (2) Complying with the written directives pursuant to
14 paragraph (4) of subdivision ~~(e)~~ (f).

15 (3) Implementing the requirements for resource family home
16 approval and permanency assessment and utilizing standardized
17 documentation established by the department.

18 (4) Ensuring staff have the education and experience necessary
19 to complete the home approval and permanency assessment
20 competently.

21 (5) Approving and denying resource family applications,
22 including all of the following:

23 (A) Rescinding home approvals and resource family approvals
24 where appropriate, consistent with the established standard.

25 (B) Providing disapproved resource families requesting review
26 of that decision due process by conducting county grievance
27 reviews pursuant to the department's regulations.

28 (C) Notifying the department of any decisions denying a
29 resource family's application or rescinding the approval of a
30 resource family.

31 (6) Updating resource family approval annually.

32 (7) Monitoring resource families through all of the following:

33 (A) Ensuring that social workers who identify a condition in
34 the home that may not meet the approval standards set forth in
35 subdivision (d) while in the course of a routine visit to children
36 placed with a resource family take appropriate action as needed.

37 (B) Requiring resource families to comply with corrective
38 action plans as necessary to correct identified deficiencies. If
39 corrective action is not completed as specified in the plan, the
40 county may rescind the resource family approval.

1 (C) Requiring resource families to report to the county child
2 welfare agency any incidents consistent with the reporting
3 requirements for licensed foster family homes.

4 (8) Investigating all complaints against a resource family and
5 taking action as necessary. This shall include investigating any
6 incidents reported about a resource family indicating that the
7 approval standard is not being maintained.

8 (A) The child's social worker shall not conduct the formal
9 investigation into the complaint received concerning a family
10 providing services under the standards required by subdivision
11 (d). To the extent that adequate resources are available,
12 complaints shall be investigated by a worker who did not initially
13 perform the home approval or permanency assessment.

14 (B) Upon conclusion of the complaint investigation, the final
15 disposition shall be reviewed and approved by a supervising staff
16 member.

17 (C) The department shall be notified of any serious incidents
18 or serious complaints or any incident that falls within the
19 definition of Section 11165.5 of the Penal Code. If those
20 incidents or complaints result in an investigation, the department
21 shall also be notified as to the status and disposition of that
22 investigation.

23 (9) Performing corrective action as required by the
24 department.

25 (10) Assessing county performance in related areas of the
26 California Child and Family Services Review, and remedying
27 problems identified.

28 (11) Submitting information and data that the department
29 determines is necessary to study, monitor, and prepare the report
30 specified in paragraph (10) of subdivision ~~(e)~~ (f).

31 ~~(h) (1) The Department of Justice shall deem criminal records~~
32 ~~information requests made by counties or the department for~~
33 ~~applicant and approved resource families as criminal records~~
34 ~~information requests for prospective adoptive families, including~~
35 ~~requests for subsequent arrest notification.~~

36 ~~(2) When a resource family moves to another county, the~~
37 ~~Department of Justice shall provide the new county of residence~~
38 ~~subsequent arrest notification for that resource family.~~

39 (i)

1 (h) Approved relatives and nonrelated extended family
2 members, licensed foster family homes, or approved adoptive
3 homes that have completed the license or approval process prior
4 to full implementation of the pilot program shall not be
5 considered part of the pilot program. The otherwise applicable
6 assessment and oversight processes shall continue to be
7 administered for families and facilities not included in the pilot
8 program.

9 ~~(j)~~

10 (i) Upon completion of the pilot program, the status of the
11 resource family's approval shall continue in full force and effect,
12 and the resource family shall be deemed approved for licensing,
13 relative and nonrelated extended family member approval,
14 guardianship, and adoption purposes.

15 ~~(k)~~

16 (j) The department may waive regulations that pose a barrier
17 to implementation and operation of this pilot program. The
18 waiver of any regulations ~~waived~~ by the department pursuant to
19 this section shall apply to only those counties participating in the
20 pilot program and only for the duration of the pilot program.

21 ~~(l)~~

22 (k) Resource families approved under this pilot program, who
23 move within a participating county or who move to another pilot
24 program county, shall retain ~~the status as a resource family~~ *their*
25 *resource family status* if the new building and grounds, outdoor
26 activity areas, and storage areas meet home approval standards.
27 *The State Department of Social Services or pilot county may*
28 *allow a pilot program-affiliated individual to transfer his or her*
29 *subsequent arrest notification if the individual moves from one*
30 *pilot county to another pilot county, as specified in subdivision*
31 *(h) of Section 1522 of the Health and Safety Code.*

32 ~~(m)~~

33 (l) A resource family approved under this pilot program and
34 who moves to a nonparticipating pilot program county shall lose
35 the status as a resource family. The new county of residence shall
36 deem this family approved for licensing, relative and nonrelated
37 extended family member approval, guardianship, and adoption
38 purposes, if the new building and grounds, outdoor activity areas,
39 and storage areas meet applicable standards, *unless the resource*
40 *family is subject to a corrective action plan.*

1 ~~(n)~~

2 (m) Implementation of the pilot program shall be contingent
3 upon the continued availability of federal Social Security Act
4 Title IV-E (42 U.S.C. Sec. 670) funds for costs associated with
5 placement of children with resource families assessed and
6 approved under the program.

7 ~~(o)~~

8 (n) Notwithstanding Section 11402, a child placed with a
9 resource family shall be eligible for AFDC-FC payments. A
10 resource family shall be paid an AFDC-FC rate pursuant to
11 Sections 11460 and 11461. Sharing ratios for nonfederal
12 expenditures for all costs associated with activities related to the
13 approval of relatives and nonrelated extended family members
14 shall be in accordance with Section 10101.

15 ~~(p) Neither the Department of Justice nor the State Department~~
16 ~~of Social Services may charge any additional fee for the criminal~~
17 ~~records clearance required pursuant to this section.~~

18 (o) *The Department of Justice shall charge fees sufficient to*
19 *cover the cost of initial or subsequent criminal offender record*
20 *information and Child Abuse Central Index searches, processing,*
21 *or responses, as specified in this section.*

22 ~~(q)~~

23 (p) Approved resource families under this pilot program shall
24 be exempt from all of the following:

25 (1) Licensure requirements set forth under the Community
26 Care Facilities Act, commencing with Section 1500 of the Health
27 and Safety Code and all regulations promulgated thereto.

28 (2) Relative and nonrelated extended family member approval
29 requirements set forth under Sections 309, 361.4, and 362.7, and
30 all regulations promulgated thereto.

31 (3) Adoptions approval and reporting requirements set forth
32 under Section 8712 of the Family Code, and all regulations
33 promulgated thereto.

34 ~~(r)~~

35 (q) The pilot program shall be authorized to continue through
36 the end of the 2009–10 fiscal year, or through the end of the third
37 full fiscal year following the date that funds are made available
38 for its implementation, whichever of these dates is later.

O