

AMENDED IN ASSEMBLY AUGUST 21, 2006

AMENDED IN ASSEMBLY AUGUST 14, 2006

AMENDED IN ASSEMBLY JUNE 26, 2006

AMENDED IN SENATE MARCH 29, 2006

SENATE BILL

No. 1667

Introduced by Senator Kuehl

February 24, 2006

An act to amend Sections 295 and 366.21 of the Welfare and Institutions Code, relating to dependent children.

LEGISLATIVE COUNSEL'S DIGEST

SB 1667, as amended, Kuehl. Dependent children.

Existing law authorizes the juvenile court to adjudge a minor who has been abused or neglected, or who meets other specified criteria, to be a dependent child of the court. Existing law requires a social worker or probation officer to give notice of review hearings relating to the adoption or legal guardianship of the minor to specified persons. Among others, the social worker or probation officer is required to give notice to the foster parents, Indian custodian, relative caregivers, community care facilitator or foster family agency having physical custody of the child, if a child is removed from the physical custody of the parents or legal guardian.

This bill would authorize any foster parent, Indian custodian, relative caregiver, community care facilitator, or foster family agency who is notified, as described above, to attend all hearings and to submit any information he or she deems relevant to the court in writing.

Existing law specifies the procedure for conducting hearings to determine the status of a dependent child of the juvenile court, including notice requirements and report filing deadlines. Existing law requires a social worker, in specific circumstances, to file a summary of his or her recommendations with the juvenile court at least 10 days prior to the hearing. Existing law further requires a social worker, at least 10 days prior to a status hearing, to file a summary of his or her recommendations for disposition to a child's foster parents, relative caregivers, or foster parents approved for adoption, if the child is removed from the physical custody of his or her parent prior to the hearing.

This bill also would require a social worker to include with his or her summary of recommendations a copy of the Judicial Council Caregiver Information Form, in the caregiver's primary language when available, along with instructions on how to file the form with the court. By requiring social workers to perform additional duties, this bill would impose a state-mandated local program.

Existing law authorizes a foster parent, relative caregiver, or certified foster parent, as defined, prior to any hearing involving a child over whom he or she has custody, to file with the juvenile court a report containing his or her recommendation for disposition.

This bill would authorize a foster parent, relative caregiver, or certified foster parent, in the alternative, to use a Judicial Council Caregiver Information Form containing his or her recommendation.

This bill would incorporate additional changes in Section 295 of the Welfare and Institutions Code proposed by SB 678 to become operative only if this bill and SB 678 are enacted and become operative on or before January 1, 2007, and this bill is enacted last, in which case Section 295 of the Welfare and Institutions Code as amended by SB 678, shall remain operative only until the operative date of this bill.

This bill would incorporate additional changes to Section 366.21 of the Welfare and Institutions Code proposed by AB 1774 to become operative only if this bill and AB 1774 are enacted and become effective on or before January 1, 2007, and this bill is enacted last, in which case Section 366.21 of the Welfare and Institutions Code as amended by AB 1774, shall remain operative only until the operative date of this bill.

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. Section 295 of the Welfare and Institutions
- 2 Code is amended to read:
- 3 295. The social worker or probation officer shall give notice
- 4 of review hearings held pursuant to Section 366.3 in the
- 5 following manner:
- 6 (a) Notice of the hearing shall be given to the following
- 7 persons:
- 8 (1) The mother.
- 9 (2) The presumed father.
- 10 (3) The legal guardian or guardians.
- 11 (4) The child, if the child is 10 years of age or older.
- 12 (5) Any known sibling of the child who is the subject of the
- 13 hearing if that sibling either is the subject of a dependency
- 14 proceeding or has been adjudged to be a dependent child of the
- 15 juvenile court. If the sibling is 10 years of age or older, the
- 16 sibling, the sibling's caregiver, and the sibling's attorney. If the
- 17 sibling is under 10 years of age, the sibling's caregiver and the
- 18 sibling's attorney. However, notice is not required to be given to
- 19 any sibling whose matter is calendared in the same court on the
- 20 same day.
- 21 (6) The foster parents, Indian custodian, relative caregivers,
- 22 community care facility, or foster family agency having physical
- 23 custody of the child if a child is removed from the physical
- 24 custody of the parents or legal guardian. The person notified may
- 25 attend all hearings and may submit any information he or she
- 26 deems relevant to the court in writing.
- 27 (7) The attorney of record if that attorney of record was not
- 28 present at the time that the hearing was set by the court.

1 (8) The alleged father or fathers, but only if the
2 recommendation is to set a new hearing pursuant to Section
3 366.26.

4 (9) If the court knows or has reason to know that an Indian
5 child is involved, then to the Indian custodian and the tribe of
6 that child. If the identity or location of the parent or Indian
7 custodian and the tribe cannot be determined, notice shall be
8 given to the Bureau of Indian Affairs.

9 (b) No notice is required for a parent whose parental rights
10 have been terminated.

11 (c) The notice of the review hearing shall be served no earlier
12 than 30 days, nor later than 15 days, before the hearing. In the
13 case of an Indian child, if notice is given to the Bureau of Indian
14 Affairs, the bureau shall have 15 days after receipt to provide the
15 requisite notice to the parent or Indian custodian and the tribe.

16 (d) (1) The notice of the review hearing shall contain a
17 statement regarding the nature of the hearing to be held, any
18 recommended change in the custody or status of the child, and
19 any recommendation that the court set a new hearing pursuant to
20 Section 366.26 in order to select a more permanent plan.

21 (2) In the case of an Indian child, the notice shall contain a
22 statement that the parent or Indian custodian and the tribe have a
23 right to intervene at any point in the proceedings. The notice
24 shall also include a statement that the parent or Indian custodian
25 and the tribe shall, upon request, be granted up to 20 additional
26 days to prepare for the proceedings.

27 (e) Service of notice shall be by first-class mail addressed to
28 the last known address of the person to be provided notice. In the
29 case of an Indian child, notice shall be by registered mail, return
30 receipt requested.

31 (f) If the child is ordered into a permanent plan of legal
32 guardianship, and subsequently a petition to terminate or modify
33 the guardianship is filed, the probation officer or social worker
34 shall serve notice of the petition not less than 15 court days prior
35 to the hearing on all persons listed in subdivision (a) and on the
36 court that established legal guardianship if it is in another county.

37 SEC. 1.5. Section 295 of the Welfare and Institutions Code is
38 amended to read:

1 295. The social worker or probation officer shall give notice
2 of review hearings held pursuant to Section 366.3 in the
3 following manner:

4 (a) Notice of the hearing shall be given to the following
5 persons:

6 (1) The mother.

7 (2) The presumed father.

8 (3) The legal guardian or guardians.

9 (4) The child, if the child is 10 years of age or older.

10 (5) Any known sibling of the child who is the subject of the
11 hearing if that sibling either is the subject of a dependency
12 proceeding or has been adjudged to be a dependent child of the
13 juvenile court. If the sibling is 10 years of age or older, the
14 sibling, the sibling's caregiver, and the sibling's attorney. If the
15 sibling is under 10 years of age, the sibling's caregiver and the
16 sibling's attorney. However, notice is not required to be given to
17 any sibling whose matter is calendared in the same court on the
18 same day.

19 (6) The foster parents, relative caregivers, community care
20 facility, or foster family agency having physical custody of the
21 child if a child is removed from the physical custody of the
22 parents or legal guardian. The person notified may attend all
23 hearings and may submit any information he or she deems
24 relevant to the court in writing.

25 (7) The attorney of record if that attorney of record was not
26 present at the time that the hearing was set by the court.

27 (8) The alleged father or fathers, but only if the
28 recommendation is to set a new hearing pursuant to Section
29 366.26.

30 (b) No notice is required for a parent whose parental rights
31 have been terminated.

32 (c) The notice of the review hearing shall be served no earlier
33 than 30 days, nor later than 15 days, before the hearing.

34 (d) The notice of the review hearing shall contain a statement
35 regarding the nature of the hearing to be held, any recommended
36 change in the custody or status of the child, and any
37 recommendation that the court set a new hearing pursuant to
38 Section 366.26 in order to select a more permanent plan.

39 (e) Service of notice shall be by first-class mail addressed to
40 the last known address of the person to be provided notice. In the

1 case of an Indian child, notice shall be by registered mail, return
2 receipt requested.

3 (f) If the child is ordered into a permanent plan of legal
4 guardianship, and subsequently a petition to terminate or modify
5 the guardianship is filed, the probation officer or social worker
6 shall serve notice of the petition not less than 15 court days prior
7 to the hearing on all persons listed in subdivision (a) and on the
8 court that established legal guardianship if it is in another county.

9 (g) If the social worker or probation officer knows or has
10 reason to know that an Indian child is involved, notice shall be
11 given in accordance with Section 224.2.

12 SEC. 2. Section 366.21 of the Welfare and Institutions Code
13 is amended to read:

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

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

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

1 any court-appointed child advocate with a copy of the report,
 2 including his or her recommendation for disposition, at least 10
 3 calendar days prior to the hearing. In the case of a child removed
 4 from the physical custody of his or her parent or legal guardian,
 5 the social worker shall, at least 10 calendar days prior to the
 6 hearing, provide a summary of his or her recommendation for
 7 disposition to any foster parents, relative caregivers, and certified
 8 foster parents who have been approved for adoption by the State
 9 Department of Social Services when it is acting as an adoption
 10 agency in counties that are not served by a county adoption
 11 agency or by a licensed county adoption agency, community care
 12 facility, or foster family agency having the physical custody of
 13 the child. The social worker shall include a copy of the Judicial
 14 Council Caregiver Information Form (JV-290) with the summary
 15 of recommendations to the child's foster parents, relative
 16 caregivers, or foster parents approved for adoption, in the
 17 caregiver's primary language when available, along with
 18 information on how to file the form with the court.

19 (d) Prior to any hearing involving a child in the physical
 20 custody of a community care facility or a foster family agency
 21 that may result in the return of the child to the physical custody
 22 of his or her parent or legal guardian, or in adoption or the
 23 creation of a legal guardianship, the facility or agency shall file
 24 with the court a report containing its recommendation for
 25 disposition. Prior to the hearing involving a child in the physical
 26 custody of a foster parent, a relative caregiver, or a certified
 27 foster parent who has been approved for adoption by the State
 28 Department of Social Services when it is acting as an adoption
 29 agency or by a licensed adoption agency, the foster parent,
 30 relative caregiver, or the certified foster parent who has been
 31 approved for adoption by the State Department of Social Services
 32 when it is acting as an adoption agency in counties that are not
 33 served by a county adoption agency or by a licensed county
 34 adoption agency, may file with the court a report, or a Judicial
 35 Council Caregiver Information Form (JV-290), containing his or
 36 her recommendation for disposition. The court shall consider the
 37 report and recommendation filed pursuant to this subdivision
 38 prior to determining any disposition.

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

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

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

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

1 services have not been provided, the court shall continue the case
2 to the 12-month permanency hearing.

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

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

34 If the child had been placed under court supervision with a
35 previously noncustodial parent pursuant to Section 361.2, the
36 court shall determine whether supervision is still necessary. The
37 court may terminate supervision and transfer permanent custody
38 to that parent, as provided for by paragraph (1) of subdivision (b)
39 of Section 361.2.

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

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

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

1 demonstrated by the parent or legal guardian and the extent to
2 which he or she availed himself or herself of services provided,
3 and shall make appropriate findings pursuant to subdivision (a)
4 of Section 366.

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

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

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

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

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

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

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

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

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

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

38 If the court orders that a child who is 10 years of age or older
39 remain in long-term foster care, the court shall determine
40 whether the agency has made reasonable efforts to maintain the

1 child's relationships with individuals other than the child's
2 siblings who are important to the child, consistent with the
3 child's best interests, and may make any appropriate order to
4 ensure that those relationships are maintained.

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

15 (i) Whenever a court orders that a hearing pursuant to Section
16 366.26 shall be held, it shall direct the agency supervising the
17 child and the licensed county adoption agency, or 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, to prepare an assessment that shall include:

21 (1) Current search efforts for an absent parent or parents or
22 legal guardians.

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

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

32 (4) A preliminary assessment of the eligibility and
33 commitment of any identified prospective adoptive parent or
34 legal guardian, particularly the caretaker, to include a social
35 history including screening for criminal records and prior
36 referrals for child abuse or neglect, the capability to meet the
37 child's needs, and the understanding of the legal and financial
38 rights and responsibilities of adoption and guardianship. If a
39 proposed guardian is a relative of the minor, and the relative was
40 assessed for foster care placement of the minor prior to January

1 1, 1998, the assessment shall also consider, but need not be
2 limited to, all of the factors specified in subdivision (a) of
3 Section 361.3.

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

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

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

17 (j) If, at any hearing held pursuant to Section 366.26, a
18 guardianship is established for the minor with a relative, and
19 juvenile court dependency is subsequently dismissed, the relative
20 shall be eligible for aid under the Kin-GAP program or the
21 Kin-GAP Plus program, as provided for in Article 4.5
22 (commencing with Section 11360) and Article 4.75
23 (commencing with Section 11380) of Chapter 2 of Part 3 of
24 Division 9.

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

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

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

37 (2) The case plan includes services to make and finalize a
38 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 subdivisions (c) and (g) enacted at the 2005–06 Regular Session
6 shall be subject to appropriation through the budget process and
7 by phase, as provided in Section 366.35.

8 SEC. 2.5. Section 366.21 of the Welfare and Institutions
9 Code, as amended by Section 26 of Chapter 75 of the Statutes of
10 2006, is amended to read:

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

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

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

1 from the physical custody of his or her parent or legal guardian,
2 the social worker shall, at least 10 calendar days prior to the
3 hearing, provide a summary of his or her recommendation for
4 disposition to any foster parents, relative caregivers, and certified
5 foster parents who have been approved for adoption by the State
6 Department of Social Services when it is acting as an adoption
7 agency in counties that are not served by a county adoption
8 agency or by a licensed county adoption agency, community care
9 facility, or foster family agency having the physical custody of
10 the child. The social worker shall include a copy of the Judicial
11 Council Caregiver Information Form (JV-290) with the summary
12 of recommendations to the child's foster parents, relative
13 caregivers, or foster parents approved for adoption, in the
14 caregiver's primary language when available, along with
15 information on how to file the form with the court.

16 (d) Prior to any hearing involving a child in the physical
17 custody of a community care facility or a foster family agency
18 that may result in the return of the child to the physical custody
19 of his or her parent or legal guardian, or in adoption or the
20 creation of a legal guardianship, the facility or agency shall file
21 with the court a report, or a Judicial Council Caregiver
22 Information Form (JV-290), containing its recommendation for
23 disposition. Prior to the hearing involving a child in the physical
24 custody of a foster parent, a relative caregiver, or a certified
25 foster parent who has been approved for adoption by the State
26 Department of Social Services when it is acting as an adoption
27 agency or by a licensed adoption agency, the foster parent,
28 relative caregiver, or the certified foster parent who has been
29 approved for adoption by the State Department of Social Services
30 when it is acting as an adoption agency in counties that are not
31 served by a county adoption agency or by a licensed county
32 adoption agency, may file with the court a report containing his
33 or her recommendation for disposition. The court shall consider
34 the report and recommendation filed pursuant to this subdivision
35 prior to determining any disposition.

36 (e) At the review hearing held six months after the initial
37 dispositional hearing, the court shall order the return of the child
38 to the physical custody of his or her parent or legal guardian
39 unless the court finds, by a preponderance of the evidence, that
40 the return of the child to his or her parent or legal guardian would

1 create a substantial risk of detriment to the safety, protection, or
2 physical or emotional well-being of the child. The social worker
3 shall have the burden of establishing that detriment. At the
4 hearing, the court shall consider the criminal history, obtained
5 pursuant to paragraph (1) of subdivision (f) of Section 16504.5,
6 of the parent or legal guardian subsequent to the child's removal,
7 provided that he or she agreed to submit fingerprint images to
8 obtain criminal history information as part of the case plan. The
9 failure of the parent or legal guardian to participate regularly and
10 make substantive progress in court-ordered treatment programs
11 shall be prima facie evidence that return would be detrimental. In
12 making its determination, the court shall review and consider the
13 social worker's report and recommendations and the report and
14 recommendations of any child advocate appointed pursuant to
15 Section 356.5; and shall consider the efforts or progress, or both,
16 demonstrated by the parent or legal guardian and the extent to
17 which he or she availed himself or herself to services provided.

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

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

subdivision (a) of Section 361.5, may be returned to his or her parent or legal guardian within six months or that reasonable services have not been provided, the court shall continue the case to the 12-month permanency hearing.

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

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

If the child had been placed under court supervision with a previously noncustodial parent pursuant to Section 361.2, the court shall determine whether supervision is still necessary. The court may terminate supervision and transfer permanent custody

1 to that parent, as provided for by paragraph (1) of subdivision (b)
2 of Section 361.2.

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

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

15 (f) The permanency hearing shall be held no later than 12
16 months after the date the child entered foster care, as that date is
17 determined pursuant to subdivision (a) of Section 361.5. At the
18 permanency hearing, the court shall determine the permanent
19 plan for the child, which shall include a determination of whether
20 the child will be returned to the child's home and, if so, when,
21 within the time limits of subdivision (a) of Section 361.5. The
22 court shall order the return of the child to the physical custody of
23 his or her parent or legal guardian unless the court finds, by a
24 preponderance of the evidence, that the return of the child to his
25 or her parent or legal guardian would create a substantial risk of
26 detriment to the safety, protection, or physical or emotional
27 well-being of the child. The social worker shall have the burden
28 of establishing that detriment. At the permanency hearing, the
29 court shall consider the criminal history, obtained pursuant to
30 *paragraph (1) of subdivision (f) of Section 16504.5*, of the parent
31 or legal guardian subsequent to the child's removal, provided that
32 he or she agreed to submit fingerprint images to obtain criminal
33 history information as part of the case plan. The court shall also
34 determine whether reasonable services that were designed to aid
35 the parent or legal guardian to overcome the problems that led to
36 the initial removal and continued custody of the child have been
37 provided or offered to the parent or legal guardian. For each
38 youth 16 years of age and older, the court shall also determine
39 whether services have been made available to assist him or her in
40 making the transition from foster care to independent living. The

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

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

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

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

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

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

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

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

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

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

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

1 compelling reason for the court's determination. That
2 recommendation shall be based on the present circumstances of
3 the child and may not preclude a different recommendation at a
4 later date if the child's circumstances change.

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

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

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

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

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

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

39 (4) A preliminary assessment of the eligibility and
40 commitment of any identified prospective adoptive parent or

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

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

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

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

24 (j) If, at any hearing held pursuant to Section 366.26, a
25 guardianship is established for the minor with a relative, and
26 juvenile court dependency is subsequently dismissed, the relative
27 shall be eligible for aid under the Kin-GAP program or the
28 Kin-GAP Plus program, as provided for in Article 4.5
29 (commencing with Section 11360) and Article 4.75
30 (commencing with Section 11380) of Chapter 2 of Part 3 of
31 Division 9.

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

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

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

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

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

9 (m) The implementation and operation of the amendments to
10 subdivisions (c) and (g) enacted at the 2005–06 Regular Session
11 shall be subject to appropriation through the budget process and
12 by phase, as provided in Section 366.35.

13 SEC. 3. If the Commission on State Mandates determines that
14 this act contains costs mandated by the state, reimbursement to
15 local agencies and school districts for those costs shall be made
16 pursuant to Part 7 (commencing with Section 17500) of Division
17 4 of Title 2 of the Government Code.

18 SEC. 4. (a) Section 1.5 of this bill incorporates amendments
19 to Section 295 of the Welfare and Institutions Code proposed by
20 this bill and SB 678. It shall only become operative if (1) both
21 bills are enacted and become effective on or before January 1,
22 2007, (2) each bill amends Section 295 of the Welfare and
23 Institutions Code, and (3) this bill is enacted after SB 678, in
24 which case Section 295 of the Welfare and Institutions Code, as
25 amended by SB 678, shall remain operative only until the
26 operative date of this bill, at which time Section 1.5 of this bill
27 shall become operative, and Section 1 of this bill shall not
28 become operative.

29 (b) Section 2.5 of this bill incorporates amendments to Section
30 366.21 of the Welfare and Institutions Code proposed by this bill
31 and AB 1774. It shall only become operative if (1) both bills are
32 enacted and become effective on or before January 1, 2007, (2)
33 each bill amends Section 366.21 of the Welfare and Institutions
34 Code, and (3) this bill is enacted after AB 1774, in which case
35 Section 366.21 of the Welfare and Institutions Code, as amended
36 by AB 1774, shall remain operative only until the operative date
37 of this bill, at which time Section 2.5 of this bill shall become
38 operative, and Section 2 of this bill shall not become operative.

O