

Introduced by Senator Liu
(Principal coauthor: Assembly Member Beall)

February 2, 2009

An act to amend Sections 16500.1 and 16501.1 of the Welfare and Institutions Code, relating to child welfare services.

LEGISLATIVE COUNSEL'S DIGEST

SB 118, as introduced, Liu. Child welfare services: incarcerated parents.

Under existing law, the state, through the State Department of Social Services and county welfare departments, shall establish and support a public system of statewide child welfare services. Under existing law, the state encourages the development of child safety approaches that meet prescribed requirements to achieve specified goals, including, among others, the speedy reunification of families when it can be safely accomplished.

Existing law also establishes that a case plan, which is required to be adopted by the county for each child receiving child welfare services and which includes prescribed information, is the foundation and central unifying tool in child welfare services.

This bill would add the requirement that the approaches to child safety protection include ensuring that an incarcerated parent receives services required by the court to reunify that parent with his or her children.

This bill would also require that the case plan include specified information about a parent's incarceration in determining the reasonable services to be offered or provided to that parent's children. By expanding the duties of county officials, this bill would impose a state-mandated local program.

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

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 16500.1 of the Welfare and Institutions
- 2 Code is amended to read:
- 3 16500.1. (a) It is the intent of the Legislature to use the
- 4 strengths of families and communities to serve the needs of children
- 5 who are alleged to be abused or neglected, as described in Section
- 6 300, to reduce the necessity for removing these children from their
- 7 home, to encourage speedy reunification of families when it can
- 8 be safely accomplished, to locate permanent homes and families
- 9 for children who cannot return to their biological families, to reduce
- 10 the number of placements experienced by these children, to ensure
- 11 that children leaving the foster care system have support within
- 12 their communities, to improve the quality and homelike nature of
- 13 out-of-home care, and to foster the educational progress of children
- 14 in out-of-home care.
- 15 (b) In order to achieve the goals specified in subdivision (a),
- 16 the state shall encourage the development of approaches to child
- 17 protection that do all of the following:
- 18 (1) Allow children to remain in their own schools, in close
- 19 proximity to their families.
- 20 (2) Increase the number and quality of foster families available
- 21 to serve these children.
- 22 (3) Use a team approach to foster care that permits the biological
- 23 and foster family and the child to be part of that team.
- 24 (4) Use team decisionmaking in case planning.
- 25 (5) Provide support to foster children and foster families.
- 26 (6) Ensure that licensing requirements do not create barriers to
- 27 recruitment of qualified, high-quality foster homes.

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

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

5 (9) Use community resources, including community-based
6 agencies and volunteer organizations, to assist in developing
7 placements for children and to provide support for children and
8 their families.

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

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

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

15 (13) *Ensure that a parent who has been incarcerated in a county*
16 *jail or the state prison receives services required by the court to*
17 *reunify the parent with his or her children.*

18 (c) (1) Each county shall provide the department with a disaster
19 response plan describing how county programs assisted under Part
20 B (commencing with Section 620) and Part E (commencing with
21 Section 670) of Subchapter IV of Chapter 7 of Title 42 of the
22 United States Code (Titles IV-B and IV-E of the Social Security
23 Act) would respond to a disaster. The plan shall set forth
24 procedures describing how each county will perform the following
25 services:

26 (A) Identify, locate, and continue availability of services for
27 children under state care or supervision who are displaced or
28 adversely affected by a disaster.

29 (B) Respond, as appropriate, to new child welfare cases in areas
30 adversely affected by a disaster, and provide services in those
31 cases.

32 (C) Remain in communication with caseworkers and other
33 essential child welfare personnel who are displaced because of a
34 disaster.

35 (D) Preserve essential program records.

36 (E) Coordinate services and share information with other
37 counties.

38 (2) The department shall review its disaster plan with respect
39 to subparagraphs (A) to (E), inclusive, of paragraph (1), and shall

1 revise the plan to clarify the role and responsibilities of the state
2 in the event of a disaster.

3 (3) The department shall consult with counties to identify
4 opportunities for collaboration between counties, and between the
5 county and the state, in the event of a disaster.

6 (d) In carrying out the requirements of subdivisions (b) and (c),
7 the department shall do all of the following:

8 (1) Consider the existing array of program models provided in
9 statute and in practice, including, but not limited to, wraparound
10 services, as defined in Section 18251, children's systems of care,
11 as provided for in Section 5852, the Oregon Family Unity or Santa
12 Clara County Family Conference models, which include family
13 conferences at key points in the casework process, such as when
14 out-of-home placement or return home is considered, and the Annie
15 E. Casey Foundation Family to Family initiative, which uses team
16 decisionmaking in case planning, community-based placement
17 practices requiring that children be placed in foster care in the
18 communities where they resided prior to placement, and involve
19 foster families as team members in family reunification efforts.

20 (2) Ensure that emergency response services, family
21 maintenance services, family reunification services, and permanent
22 placement services are coordinated with the implementation of the
23 models described in paragraph (1).

24 (3) Ensure consistency between child welfare services program
25 regulations and the program models described in paragraph (1).

26 (e) The department, in conjunction with stakeholders, including,
27 but not limited to, county child welfare services agencies, foster
28 parent and group home associations, the California Youth
29 Connection, and other child advocacy groups, shall review the
30 existing child welfare services program regulations to ensure that
31 these regulations are consistent with the legislative intent specified
32 in subdivision (a). This review shall also determine how to
33 incorporate the best practice guidelines for assessment of children
34 and families receiving child welfare and foster care services, as
35 required by Section 16501.2.

36 (f) The department shall report to the Legislature on the results
37 of the actions taken under this section on or before January 1, 2002.

38 SEC. 2. Section 16501.1 of the Welfare and Institutions Code
39 is amended to read:

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

4 (2) The Legislature further finds and declares that a case plan
5 ensures that the child receives protection and safe and proper care
6 and case management, and that services are provided to the child
7 and parents or other caretakers, as appropriate, in order to improve
8 conditions in the parent's home, to facilitate the safe return of the
9 child to a safe home or the permanent placement of the child, and
10 to address the needs of the child while in foster care.

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

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

19 *(3) In determining the reasonable services to be offered or*
20 *provided, the case plan shall include information about a parent's*
21 *incarceration in a county jail or the state prison during the time*
22 *that a minor child of that parent is involved in dependency care.*
23 *The incarceration information shall be included in the CWS-CMS*
24 *case management system as a mandatory field check box indicating*
25 *incarceration. The information shall be updated, no less frequently*
26 *than once every six months, to denote the applicable county jail*
27 *or state prison and the dates for each instance of incarceration.*
28 *This information shall be provided to the court pursuant to Section*
29 *366.*

30 ~~(3)~~

31 (4) Reasonable services shall be offered or provided to make it
32 possible for a child to return to a safe home environment, unless,
33 pursuant to subdivisions (b) and (e) of Section 361.5, the court
34 determines that reunification services shall not be provided.

35 ~~(4)~~

36 (5) If reasonable services are not ordered, or are terminated,
37 reasonable efforts shall be made to place the child in a timely
38 manner in accordance with the permanent plan and to complete
39 all steps necessary to finalize the permanent placement of the child.

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

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

(d) A written case plan shall be completed within a maximum of 60 days of the initial removal of the child or of the in-person response required under subdivision (f) of Section 16501 if the child has not been removed from his or her home, or by the date of the dispositional hearing pursuant to Section 358, whichever occurs first. The case plan shall be updated, as the service needs of the child and family dictate. At a minimum, the case plan shall be updated in conjunction with each status review hearing conducted pursuant to Section 366.21, and the hearing conducted pursuant to Section 366.26, but no less frequently than once every six months. Each updated case plan shall include a description of the services that have been provided to the child under the plan and an evaluation of the appropriateness and effectiveness of those services.

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

(2) The extension of the maximum time available for preparing a written case plan from the 30 to 60 days shall be effective 90 days after the date that the department gives counties written notice that necessary changes have been made to the Child Welfare

1 Services Case Management System to account for the 60-day
2 timeframe for preparing a written case plan.

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

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

8 (1) The case plan shall be based upon an assessment of the
9 circumstances that required child welfare services intervention.
10 The child shall be involved in developing the case plan as age and
11 developmentally appropriate.

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

14 (3) The case plan shall identify the original allegations of abuse
15 or neglect, as defined in Article 2.5 (commencing with Section
16 11164) of Chapter 2 of Title 1 of Part 4 of the Penal Code, or the
17 conditions cited as the basis for declaring the child a dependent of
18 the court pursuant to Section 300, or all of these, and the other
19 precipitating incidents that led to child welfare services
20 intervention.

21 (4) The case plan shall include a description of the schedule of
22 the social worker contacts with the child and the family or other
23 caretakers. The frequency of these contacts shall be in accordance
24 with regulations adopted by the State Department of Social
25 Services. If the child has been placed in foster care out of state,
26 the county social worker or a social worker on the staff of the
27 social services agency in the state in which the child has been
28 placed shall visit the child in a foster family home or the home of
29 a relative, consistent with federal law and in accordance with the
30 department's approved state plan. For children in out-of-state group
31 home facilities, visits shall be conducted at least monthly, pursuant
32 to Section 16516.5. At least once every six months, at the time of
33 a regularly scheduled social worker contact with the foster child,
34 the child's social worker shall inform the child of his or her rights
35 as a foster child, as specified in Section 16001.9. The social worker
36 shall provide the information to the child in a manner appropriate
37 to the age or developmental level of the child.

38 (5) (A) When out-of-home services are used, the frequency of
39 contact between the natural parents or legal guardians and the child
40 shall be specified in the case plan. The frequency of those contacts

1 shall reflect overall case goals, and consider other principles
2 outlined in this section.

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

8 (6) When out-of-home placement is made, the case plan shall
9 include provisions for the development and maintenance of sibling
10 relationships as specified in subdivisions (b), (c), and (d) of Section
11 16002. If appropriate, when siblings who are dependents of the
12 juvenile court are not placed together, the social worker for each
13 child, if different, shall communicate with each of the other social
14 workers and ensure that the child's siblings are informed of
15 significant life events that occur within their extended family.
16 Unless it has been determined that it is inappropriate in a particular
17 case to keep siblings informed of significant life events that occur
18 within the extended family, the social worker shall determine the
19 appropriate means and setting for disclosure of this information
20 to the child commensurate with the child's age and emotional
21 well-being. These significant life events shall include, but shall
22 not be limited to, the following:

23 (A) The death of an immediate relative.

24 (B) The birth of a sibling.

25 (C) Significant changes regarding a dependent child, unless the
26 child objects to the sharing of the information with his or her
27 siblings, including changes in placement, major medical or mental
28 health diagnoses, treatments, or hospitalizations, arrests, and
29 changes in the permanent plan.

30 (7) If out-of-home placement is made in a foster family home,
31 group home, or other child care institution that is either a
32 substantial distance from the home of the child's parent or out of
33 state, the case plan shall specify the reasons why that placement
34 is in the best interest of the child. When an out-of-state group home
35 placement is recommended or made, the case plan shall, in
36 addition, specify compliance with Section 7911.1 of the Family
37 Code.

38 (8) (A) If out-of-home services are used, or if parental rights
39 have been terminated and the case plan is placement for adoption,
40 the case plan shall include a recommendation regarding the

1 appropriateness of unsupervised visitation between the child and
2 any of the child's siblings. This recommendation shall include a
3 statement regarding the child's and the siblings' willingness to
4 participate in unsupervised visitation. If the case plan includes a
5 recommendation for unsupervised sibling visitation, the plan shall
6 also note that information necessary to accomplish this visitation
7 has been provided to the child or to the child's siblings.

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

13 (9) If out-of-home services are used and the goal is reunification,
14 the case plan shall describe the services to be provided to assist in
15 reunification and the services to be provided concurrently to
16 achieve legal permanency if efforts to reunify fail. The plan shall
17 also consider in-state and out-of-state placements, the importance
18 of developing and maintaining sibling relationships pursuant to
19 Section 16002, and the desire and willingness of the caregiver to
20 provide legal permanency for the child if reunification is
21 unsuccessful.

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

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

39 (B) Parents and legal guardians shall be advised that, pursuant
40 to Section 1228.1 of the Evidence Code, neither their signature on

1 the child welfare services case plan nor their acceptance of any
2 services prescribed in the child welfare services case plan shall
3 constitute an admission of guilt or be used as evidence against the
4 parent or legal guardian in a court of law. However, they shall also
5 be advised that the parent's or guardian's failure to cooperate,
6 except for good cause, in the provision of services specified in the
7 child welfare services case plan may be used in any hearing held
8 pursuant to Section 366.21 or 366.22 as evidence.

9 (12) A child shall be given a meaningful opportunity to
10 participate in the development of the case plan and state his or her
11 preference for foster care placement. A child who is 12 years of
12 age or older and in a permanent placement shall also be given the
13 opportunity to review the case plan, sign the case plan, and receive
14 a copy of the case plan.

15 (13) The case plan shall be included in the court report and shall
16 be considered by the court at the initial hearing and each review
17 hearing. Modifications to the case plan made during the period
18 between review hearings need not be approved by the court if the
19 casework supervisor for that case determines that the modifications
20 further the goals of the plan. If out-of-home services are used with
21 the goal of family reunification, the case plan shall consider and
22 describe the application of subdivision (b) of Section 11203.

23 (14) If the case plan has as its goal for the child a permanent
24 plan of adoption or placement in another permanent home, it shall
25 include a statement of the child's wishes regarding their permanent
26 placement plan and an assessment of those stated wishes. The
27 agency shall also include documentation of the steps the agency
28 is taking to find an adoptive family or other permanent living
29 arrangements for the child; to place the child with an adoptive
30 family, an appropriate and willing relative, a legal guardian, or in
31 another planned permanent living arrangement; and to finalize the
32 adoption or legal guardianship. At a minimum, the documentation
33 shall include child-specific recruitment efforts, such as the use of
34 state, regional, and national adoption exchanges, including
35 electronic exchange systems, when the child has been freed for
36 adoption.

37 (15) When appropriate, for a child who is 16 years of age or
38 older, the case plan shall include a written description of the
39 programs and services that will help the child, consistent with the
40 child's best interests, prepare for the transition from foster care to

1 independent living. The case plan shall be developed with the child
2 and individuals identified as important to the child, and shall
3 include steps the agency is taking to ensure that the child has a
4 connection to a caring adult.

5 (g) If the court finds, after considering the case plan, that
6 unsupervised sibling visitation is appropriate and has been
7 consented to, the court shall order that the child or the child's
8 siblings, the child's current caregiver, and the child's prospective
9 adoptive parents, if applicable, be provided with information
10 necessary to accomplish this visitation. This section does not
11 require or prohibit the social worker's facilitation, transportation,
12 or supervision of visits between the child and his or her siblings.

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

17 (i) When a child who is 10 years of age or older and who has
18 been in out-of-home placement for six months or longer, the case
19 plan shall include an identification of individuals, other than the
20 child's siblings, who are important to the child and actions
21 necessary to maintain the child's relationship with those
22 individuals, provided that those relationships are in the best interest
23 of the child. The social worker shall ask every child who is 10
24 years of age or older and who has been in out-of-home placement
25 for six months or longer to identify individuals other than the
26 child's siblings who are important to the child, and may ask any
27 other child to provide that information, as appropriate. The social
28 worker shall make efforts to identify other individuals who are
29 important to the child, consistent with the child's best interests.

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

32 (k) On or before June 30, 2008, the department, in consultation
33 with the County Welfare Directors Association and other
34 advocates, shall develop a comprehensive plan to ensure that 90
35 percent of foster children are visited by their caseworkers on a
36 monthly basis by October 1, 2011, and that the majority of the
37 visits occur in the residence of the child. The plan shall include
38 any data reporting requirements necessary to comply with the
39 provisions of the federal Child and Family Services Improvement
40 Act of 2006 (Public Law 109-288).

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

5 SEC. 3. If the Commission on State Mandates determines that
6 this act contains costs mandated by the state, reimbursement to
7 local agencies and school districts for those costs shall be made
8 pursuant to Part 7 (commencing with Section 17500) of Division
9 4 of Title 2 of the Government Code.