

AMENDED IN ASSEMBLY JUNE 15, 2009

AMENDED IN SENATE JUNE 1, 2009

AMENDED IN SENATE MAY 20, 2009

AMENDED IN SENATE APRIL 20, 2009

SENATE BILL

No. 118

Introduced by Senator Liu

(Principal coauthor: Assembly Member Beall)

February 2, 2009

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

LEGISLATIVE COUNSEL'S DIGEST

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

Under existing law, the state, through the State Department of Social Services and county welfare departments, is required to establish and support a public system of statewide child welfare services.

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 require that the case plan include specified information, to the extent possible, 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 16501.1 of the Welfare and Institutions
2 Code is amended to read:
3 16501.1. (a) (1) The Legislature finds and declares that the
4 foundation and central unifying tool in child welfare services is
5 the case plan.
6 (2) The Legislature further finds and declares that a case plan
7 ensures that the child receives protection and safe and proper care
8 and case management, and that services are provided to the child
9 and parents or other caretakers, as appropriate, in order to improve
10 conditions in the parent's home, to facilitate the safe return of the
11 child to a safe home or the permanent placement of the child, and
12 to address the needs of the child while in foster care.
13 (b) (1) A case plan shall be based upon the principles of this
14 section and shall document that a preplacement assessment of the
15 service needs of the child and family, and preplacement preventive
16 services, have been provided, and that reasonable efforts to prevent
17 out-of-home placement have been made.
18 (2) In determining the reasonable services to be offered or
19 provided, the child's health and safety shall be the paramount
20 concerns.
21 (3) (A) In determining the reasonable services to be offered or
22 provided, the case plan shall include information, to the extent
23 possible, about a parent's incarceration in a county jail or the state
24 prison during the time that a minor child of that parent is involved
25 in dependency care. Once a consistent data entry field or fields
26 have been designated in the statewide child welfare database, social
27 workers shall make reasonable efforts to collect and update
28 necessary data regarding a child's incarcerated parent or parents.
29 (B) In order to further the goals of this paragraph, the Legislature
30 encourages the State Department of Social Services to consult with
31 the county welfare directors regarding the best way to incorporate

1 the information specified in subparagraph (A) as a required field
2 in the statewide database. The Legislature also encourages ~~the~~
3 ~~Department of Justice,~~ the Department of Corrections and
4 Rehabilitation, county welfare departments, and county sheriffs
5 to develop protocols for facilitating the exchange of information
6 regarding the location and sentencing of the incarcerated parent
7 or parents of a minor child who is in dependency care.

8 (C) Nothing in this paragraph shall be interpreted to require the
9 department to create a new ~~dedicated~~ field in the statewide database
10 for incorporating the information specified in subparagraph (A).

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

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

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

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

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

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

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

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

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

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

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

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

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

39 (4) The case plan shall include a description of the schedule of
40 the social worker contacts with the child and the family or other

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

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

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

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

1 (A) The death of an immediate relative.

2 (B) The birth of a sibling.

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

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

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

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

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

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

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

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

28 (12) A child shall be given a meaningful opportunity to
29 participate in the development of the case plan and state his or her
30 preference for foster care placement. A child who is 12 years of
31 age or older and in a permanent placement shall also be given the
32 opportunity to review the case plan, sign the case plan, and receive
33 a copy of the case plan.

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

1 the goal of family reunification, the case plan shall consider and
2 describe the application of subdivision (b) of Section 11203.

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

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

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

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

37 (i) When a child who is 10 years of age or older and who has
38 been in out-of-home placement for six months or longer, the case
39 plan shall include an identification of individuals, other than the
40 child's siblings, who are important to the child and actions

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

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

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

21 (l) The implementation and operation of the amendments to
22 subdivision (i) enacted at the 2005-06 Regular Session shall be
23 subject to appropriation through the budget process and by phase,
24 as provided in Section 366.35.

25 SEC. 2. If the Commission on State Mandates determines that
26 this act contains costs mandated by the state, reimbursement to
27 local agencies and school districts for those costs shall be made
28 pursuant to Part 7 (commencing with Section 17500) of Division
29 4 of Title 2 of the Government Code.