

AMENDED IN ASSEMBLY SEPTEMBER 3, 2009

AMENDED IN ASSEMBLY AUGUST 31, 2009

AMENDED IN ASSEMBLY AUGUST 17, 2009

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 ~~Sections 361.5 and 16501.1 of~~ *Section 16501.1 of*,
and to add Section 16501.8 to, 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. *The bill would also require social workers to make reasonable efforts to collect and update necessary data regarding a child's incarcerated parent or parents, once a consistent data entry field or fields have been designated in the statewide child welfare database.* By expanding the duties of county officials, this bill would impose a state-mandated local program.

This bill would incorporate additional changes in Section 16501.1 of the Welfare and Institutions Code, proposed by SB 597, to be operative only if SB 597 and this bill are both chaptered and become effective on or before January 1, 2010, and this bill is chaptered last.

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 361.5 of the Welfare and Institutions~~
2 ~~Code is amended to read:~~
3 ~~361.5. (a) Except as provided in subdivision (b), or when the~~
4 ~~parent has voluntarily relinquished the child and the relinquishment~~
5 ~~has been filed with the State Department of Social Services, or~~
6 ~~upon the establishment of an order of guardianship pursuant to~~
7 ~~Section 360, whenever a child is removed from a parent's or~~
8 ~~guardian's custody, the juvenile court shall order the social worker~~
9 ~~to provide child welfare services to the child and the child's mother~~
10 ~~and statutorily presumed father or guardians. Upon a finding and~~
11 ~~declaration of paternity by the juvenile court or proof of a prior~~
12 ~~declaration of paternity by any court of competent jurisdiction, the~~
13 ~~juvenile court may order services for the child and the biological~~
14 ~~father, if the court determines that the services will benefit the~~
15 ~~child.~~
16 ~~(1) Family reunification services, when provided, shall be~~
17 ~~provided as follows:~~

1 ~~(A) Except as otherwise provided in subparagraph (C), for a~~
2 ~~child who, on the date of initial removal from the physical custody~~
3 ~~of his or her parent or guardian, was three years of age or older,~~
4 ~~court-ordered services shall be provided beginning with the~~
5 ~~dispositional hearing and ending 12 months after the date the child~~
6 ~~entered foster care as defined in Section 361.49, unless the child~~
7 ~~is returned to the home of the parent or guardian.~~

8 ~~(B) For a child who, on the date of initial removal from the~~
9 ~~physical custody of his or her parent or guardian, was under three~~
10 ~~years of age, court-ordered services shall be provided for a period~~
11 ~~of six months from the dispositional hearing as provided in~~
12 ~~subdivision (e) of Section 366.21, but no longer than 12 months~~
13 ~~from the date the child entered foster care as defined in Section~~
14 ~~361.49 unless the child is returned to the home of the parent or~~
15 ~~guardian.~~

16 ~~(C) For the purpose of placing and maintaining a sibling group~~
17 ~~together in a permanent home should reunification efforts fail, for~~
18 ~~a child in a sibling group whose members were removed from~~
19 ~~parental custody at the same time, and in which one member of~~
20 ~~the sibling group was under three years of age on the date of initial~~
21 ~~removal from the physical custody of his or her parent or guardian,~~
22 ~~court-ordered services for some or all of the sibling group may be~~
23 ~~limited as set forth in subparagraph (B). For the purposes of this~~
24 ~~paragraph, “a sibling group” shall mean two or more children who~~
25 ~~are related to each other as full or half siblings.~~

26 ~~(2) Any motion to terminate court-ordered reunification services~~
27 ~~prior to the hearing set pursuant to subdivision (f) of Section 366.21~~
28 ~~for a child described by subparagraph (A) of paragraph (1), or~~
29 ~~prior to the hearing set pursuant to subdivision (e) of Section~~
30 ~~366.21 for a child described by subparagraph (B) or (C) of~~
31 ~~paragraph (1), shall be made pursuant to the requirements set forth~~
32 ~~in subdivision (c) of Section 388. A motion to terminate~~
33 ~~court-ordered reunification services shall not be required at the~~
34 ~~hearing set pursuant to subdivision (e) of Section 366.21 if the~~
35 ~~court finds by clear and convincing evidence one of the following:~~

36 ~~(A) That the child was removed initially under subdivision (g)~~
37 ~~of Section 300 and the whereabouts of the parent are still unknown.~~

38 ~~(B) That the parent has failed to contact and visit the child.~~

39 ~~(C) That the parent has been convicted of a felony indicating~~
40 ~~parental unfitness.~~

~~(3) Notwithstanding subparagraphs (A), (B), and (C) of paragraph (1), court-ordered services may be extended up to a maximum time period not to exceed 18 months after the date the child was originally removed from physical custody of his or her parent or guardian if it can be shown, at the hearing held pursuant to subdivision (f) of Section 366.21, that the permanent plan for the child is that he or she will be returned and safely maintained in the home within the extended time period. The court shall extend the time period only if it finds that there is a substantial probability that the child will be returned to the physical custody of his or her parent or guardian within the extended time period or that reasonable services have not been provided to the parent or guardian. In determining whether court-ordered services may be extended, the court shall consider the special circumstances of an incarcerated or institutionalized parent or parents, or parent or parents court-ordered to a residential substance abuse treatment program, including, but not limited to, barriers to the parent's or guardian's access to services and ability to maintain contact with his or her child. The court shall also consider, among other factors, good faith efforts that the parent or guardian has made to maintain contact with the child. If the court extends the time period, the court shall specify the factual basis for its conclusion that there is a substantial probability that the child will be returned to the physical custody of his or her parent or guardian within the extended time period. The court also shall make findings pursuant to subdivision (a) of Section 366 and subdivision (e) of Section 358.1.~~

~~When counseling or other treatment services are ordered, the parent or guardian shall be ordered to participate in those services, unless the parent's or guardian's participation is deemed by the court to be inappropriate or potentially detrimental to the child, or unless a parent or guardian is incarcerated and the corrections facility in which he or she is incarcerated does not provide access to the treatment services ordered by the court. Physical custody of the child by the parents or guardians during the applicable time period under subparagraph (A), (B), or (C) of paragraph (1) shall not serve to interrupt the running of the period. If at the end of the applicable time period, a child cannot be safely returned to the care and custody of a parent or guardian without court supervision, but the child clearly desires contact with the parent or guardian,~~

1 the court shall take the child's desire into account in devising a
2 permanency plan.

3 In cases where the child was under three years of age on the date
4 of the initial removal from the physical custody of his or her parent
5 or guardian or is a member of a sibling group as described in
6 subparagraph (C) of paragraph (1), the court shall inform the parent
7 or guardian that the failure of the parent or guardian to participate
8 regularly in any court-ordered treatment programs or to cooperate
9 or avail himself or herself of services provided as part of the child
10 welfare services case plan may result in a termination of efforts
11 to reunify the family after six months. The court shall inform the
12 parent or guardian of the factors used in subdivision (e) of Section
13 366.21 to determine whether to limit services to six months for
14 some or all members of a sibling group as described in
15 subparagraph (C) of paragraph (1).

16 (4) Notwithstanding paragraph (3), court-ordered services may
17 be extended up to a maximum time period not to exceed 24 months
18 after the date the child was originally removed from physical
19 custody of his or her parent or guardian if it is shown, at the hearing
20 held pursuant to subdivision (b) of Section 366.22, that the
21 permanent plan for the child is that he or she will be returned and
22 safely maintained in the home within the extended time period.
23 The court shall extend the time period only if it finds that it is in
24 the child's best interest to have the time period extended and that
25 there is a substantial probability that the child will be returned to
26 the physical custody of his or her parent or guardian who is
27 described in subdivision (b) of Section 366.22 within the extended
28 time period, or that reasonable services have not been provided to
29 the parent or guardian. If the court extends the time period, the
30 court shall specify the factual basis for its conclusion that there is
31 a substantial probability that the child will be returned to the
32 physical custody of his or her parent or guardian within the
33 extended time period. The court also shall make findings pursuant
34 to subdivision (a) of Section 366 and subdivision (e) of Section
35 358.1.

36 When counseling or other treatment services are ordered, the
37 parent or guardian shall be ordered to participate in those services,
38 in order for substantial probability to be found. Physical custody
39 of the child by the parents or guardians during the applicable time
40 period under subparagraph (A), (B), or (C) of paragraph (1) shall

1 not serve to interrupt the running of the period. If at the end of the
2 applicable time period, the child cannot be safely returned to the
3 care and custody of a parent or guardian without court supervision;
4 but the child clearly desires contact with the parent or guardian,
5 the court shall take the child's desire into account in devising a
6 permanency plan.

7 Except in cases where, pursuant to subdivision (b), the court
8 does not order reunification services, the court shall inform the
9 parent or parents of Section 366.26 and shall specify that the
10 parent's or parents' parental rights may be terminated.

11 (b) Reunification services need not be provided to a parent or
12 guardian described in this subdivision when the court finds, by
13 clear and convincing evidence, any of the following:

14 (1) That the whereabouts of the parent or guardian is unknown.
15 A finding pursuant to this paragraph shall be supported by an
16 affidavit or by proof that a reasonably diligent search has failed
17 to locate the parent or guardian. The posting or publication of
18 notices is not required in that search.

19 (2) That the parent or guardian is suffering from a mental
20 disability that is described in Chapter 2 (commencing with Section
21 7820) of Part 4 of Division 12 of the Family Code and that renders
22 him or her incapable of utilizing those services.

23 (3) That the child or a sibling of the child has been previously
24 adjudicated a dependent pursuant to any subdivision of Section
25 300 as a result of physical or sexual abuse, that following that
26 adjudication the child had been removed from the custody of his
27 or her parent or guardian pursuant to Section 361, that the child
28 has been returned to the custody of the parent or guardian from
29 whom the child had been taken originally, and that the child is
30 being removed pursuant to Section 361, due to additional physical
31 or sexual abuse.

32 (4) That the parent or guardian of the child has caused the death
33 of another child through abuse or neglect.

34 (5) That the child was brought within the jurisdiction of the
35 court under subdivision (e) of Section 300 because of the conduct
36 of that parent or guardian.

37 (6) That the child has been adjudicated a dependent pursuant
38 to any subdivision of Section 300 as a result of severe sexual abuse
39 or the infliction of severe physical harm to the child, a sibling, or
40 a half sibling by a parent or guardian, as defined in this subdivision;

1 and the court makes a factual finding that it would not benefit the
2 child to pursue reunification services with the offending parent or
3 guardian.

4 A finding of severe sexual abuse, for the purposes of this
5 subdivision, may be based on, but is not limited to, sexual
6 intercourse, or stimulation involving genital-genital, oral-genital,
7 anal-genital, or oral-anal contact, whether between the parent or
8 guardian and the child or a sibling or half sibling of the child, or
9 between the child or a sibling or half sibling of the child and
10 another person or animal with the actual or implied consent of the
11 parent or guardian; or the penetration or manipulation of the
12 child's, sibling's, or half sibling's genital organs or rectum by any
13 animate or inanimate object for the sexual gratification of the
14 parent or guardian, or for the sexual gratification of another person
15 with the actual or implied consent of the parent or guardian.

16 A finding of the infliction of severe physical harm, for the
17 purposes of this subdivision, may be based on, but is not limited
18 to, deliberate and serious injury inflicted to or on a child's body
19 or the body of a sibling or half sibling of the child by an act or
20 omission of the parent or guardian, or of another individual or
21 animal with the consent of the parent or guardian; deliberate and
22 torturous confinement of the child, sibling, or half sibling in a
23 closed space; or any other torturous act or omission that would be
24 reasonably understood to cause serious emotional damage.

25 (7) That the parent is not receiving reunification services for a
26 sibling or a half sibling of the child pursuant to paragraph (3), (5),
27 or (6):

28 (8) That the child was conceived by means of the commission
29 of an offense listed in Section 288 or 288.5 of the Penal Code, or
30 by an act committed outside of this state that, if committed in this
31 state, would constitute one of those offenses. This paragraph only
32 applies to the parent who committed the offense or act.

33 (9) That the child has been found to be a child described in
34 subdivision (g) of Section 300, that the parent or guardian of the
35 child willfully abandoned the child, and the court finds that the
36 abandonment itself constituted a serious danger to the child; or
37 that the parent or other person having custody of the child
38 voluntarily surrendered physical custody of the child pursuant to
39 Section 1255.7 of the Health and Safety Code. For the purposes
40 of this paragraph, "serious danger" means that without the

1 intervention of another person or agency, the child would have
2 sustained severe or permanent disability, injury, illness, or death.
3 For purposes of this paragraph, “willful abandonment” shall not
4 be construed as actions taken in good faith by the parent without
5 the intent of placing the child in serious danger.

6 (10) That the court ordered termination of reunification services
7 for any siblings or half siblings of the child because the parent or
8 guardian failed to reunify with the sibling or half sibling after the
9 sibling or half sibling had been removed from that parent or
10 guardian pursuant to Section 361 and that parent or guardian is
11 the same parent or guardian described in subdivision (a) and that,
12 according to the findings of the court, this parent or guardian has
13 not subsequently made a reasonable effort to treat the problems
14 that led to removal of the sibling or half sibling of that child from
15 that parent or guardian.

16 (11) That the parental rights of a parent over any sibling or half
17 sibling of the child had been permanently severed, and this parent
18 is the same parent described in subdivision (a), and that, according
19 to the findings of the court, this parent has not subsequently made
20 a reasonable effort to treat the problems that led to removal of the
21 sibling or half sibling of that child from the parent.

22 (12) That the parent or guardian of the child has been convicted
23 of a violent felony, as defined in subdivision (c) of Section 667.5
24 of the Penal Code.

25 (13) That the parent or guardian of the child has a history of
26 extensive, abusive, and chronic use of drugs or alcohol and has
27 resisted prior court-ordered treatment for this problem during a
28 three-year period immediately prior to the filing of the petition
29 that brought that child to the court’s attention, or has failed or
30 refused to comply with a program of drug or alcohol treatment
31 described in the case plan required by Section 358.1 on at least
32 two prior occasions, even though the programs identified were
33 available and accessible.

34 (14) That the parent or guardian of the child has advised the
35 court that he or she is not interested in receiving family
36 maintenance or family reunification services or having the child
37 returned to or placed in his or her custody and does not wish to
38 receive family maintenance or reunification services.

39 The parent or guardian shall be represented by counsel and shall
40 execute a waiver of services form to be adopted by the Judicial

1 Council. The court shall advise the parent or guardian of any right
2 to ~~services and of the possible consequences of a waiver of~~
3 ~~services, including the termination of parental rights and placement~~
4 ~~of the child for adoption. The court shall not accept the waiver of~~
5 ~~services unless it states on the record its finding that the parent or~~
6 ~~guardian has knowingly and intelligently waived the right to~~
7 ~~services.~~

8 (15) ~~That the parent or guardian has on one or more occasions~~
9 ~~willfully abducted the child or child's sibling or half sibling from~~
10 ~~his or her placement and refused to disclose the child's or child's~~
11 ~~sibling's or half sibling's whereabouts, refused to return physical~~
12 ~~custody of the child or child's sibling or half sibling to his or her~~
13 ~~placement, or refused to return physical custody of the child or~~
14 ~~child's sibling or half sibling to the social worker.~~

15 (c) ~~In deciding whether to order reunification in any case in~~
16 ~~which this section applies, the court shall hold a dispositional~~
17 ~~hearing. The social worker shall prepare a report that discusses~~
18 ~~whether reunification services shall be provided. When it is alleged,~~
19 ~~pursuant to paragraph (2) of subdivision (b), that the parent is~~
20 ~~incapable of utilizing services due to mental disability, the court~~
21 ~~shall order reunification services unless competent evidence from~~
22 ~~mental health professionals establishes that, even with the provision~~
23 ~~of services, the parent is unlikely to be capable of adequately caring~~
24 ~~for the child within the time limits specified in subdivision (a).~~

25 The court shall not order reunification for a parent or guardian
26 described in paragraph (3), (4), (6), (7), (8), (9), (10), (11), (12),
27 (13), (14), or (15) of subdivision (b) unless the court finds, by clear
28 and convincing evidence, that reunification is in the best interest
29 of the child.

30 In addition, the court shall not order reunification in any situation
31 described in paragraph (5) of subdivision (b) unless it finds that,
32 based on competent testimony, those services are likely to prevent
33 reabuse or continued neglect of the child or that failure to try
34 reunification will be detrimental to the child because the child is
35 closely and positively attached to that parent. The social worker
36 shall investigate the circumstances leading to the removal of the
37 child and advise the court whether there are circumstances that
38 indicate that reunification is likely to be successful or unsuccessful
39 and whether failure to order reunification is likely to be detrimental
40 to the child.

1 The failure of the parent to respond to previous services, the fact
2 that the child was abused while the parent was under the influence
3 of drugs or alcohol, a past history of violent behavior, or testimony
4 by a competent professional that the parent's behavior is unlikely
5 to be changed by services are among the factors indicating that
6 reunification services are unlikely to be successful. The fact that
7 a parent or guardian is no longer living with an individual who
8 severely abused the child may be considered in deciding that
9 reunification services are likely to be successful, provided that the
10 court shall consider any pattern of behavior on the part of the parent
11 that has exposed the child to repeated abuse.

12 ~~(d) If reunification services are not ordered pursuant to~~
13 ~~paragraph (1) of subdivision (b) and the whereabouts of a parent~~
14 ~~become known within six months of the out-of-home placement~~
15 ~~of the child, the court shall order the social worker to provide~~
16 ~~family reunification services in accordance with this subdivision.~~

17 ~~(e) (1) If the parent or guardian is incarcerated or~~
18 ~~institutionalized, the court shall order reasonable services unless~~
19 ~~the court determines, by clear and convincing evidence, those~~
20 ~~services would be detrimental to the child. In determining~~
21 ~~detriment, the court shall consider the age of the child, the degree~~
22 ~~of parent-child bonding, the length of the sentence, the length and~~
23 ~~nature of the treatment, the nature of the crime or illness, the degree~~
24 ~~of detriment to the child if services are not offered and, for children~~
25 ~~10 years of age or older, the child's attitude toward the~~
26 ~~implementation of family reunification services, the likelihood of~~
27 ~~the parent's discharge from incarceration or institutionalization~~
28 ~~within the reunification time limitations described in subdivision~~
29 ~~(a), and any other appropriate factors. In determining the content~~
30 ~~of reasonable services, the court shall consider the particular~~
31 ~~barriers to an incarcerated or otherwise institutionalized parent's~~
32 ~~access to those court-mandated services and ability to maintain~~
33 ~~contact with his or her child, and shall document this information~~
34 ~~in the child's case plan. Reunification services are subject to the~~
35 ~~applicable time limitations imposed in subdivision (a). Services~~
36 ~~may include, but shall not be limited to, all of the following:~~

37 ~~(A) Maintaining contact between the parent and child through~~
38 ~~collect telephone calls.~~

39 ~~(B) Transportation services, where appropriate.~~

40 ~~(C) Visitation services, where appropriate.~~

1 ~~(D) Reasonable services to extended family members or foster~~
2 ~~parents providing care for the child if the services are not~~
3 ~~detrimental to the child.~~

4 ~~An incarcerated parent may be required to attend counseling,~~
5 ~~parenting classes, or vocational training programs as part of the~~
6 ~~reunification service plan if actual access to these services is~~
7 ~~provided. The social worker shall document in the child's case~~
8 ~~plan the particular barriers to an incarcerated or institutionalized~~
9 ~~parent's access to those court-mandated services and ability to~~
10 ~~maintain contact with his or her child.~~

11 ~~(2) (A) The presiding judge of the juvenile court of each county~~
12 ~~may convene representatives of the county welfare department,~~
13 ~~the sheriff's department, and other appropriate entities for the~~
14 ~~purpose of developing and entering into protocols for ensuring the~~
15 ~~notification, transportation, and presence of an incarcerated or~~
16 ~~institutionalized parent at all court hearings involving proceedings~~
17 ~~affecting the child pursuant to Section 2625 of the Penal Code.~~
18 ~~The county welfare department shall utilize the prisoner locator~~
19 ~~system developed by the Department of Corrections and~~
20 ~~Rehabilitation to facilitate timely and effective notice of hearings~~
21 ~~for incarcerated parents.~~

22 ~~(B) Once a consistent data entry field or fields have been~~
23 ~~designated in the statewide child welfare database, social workers~~
24 ~~shall make reasonable efforts to collect and update necessary data~~
25 ~~regarding a child's incarcerated parent or parents. The Legislature~~
26 ~~encourages the State Department of Social Services to consult with~~
27 ~~the county welfare directors regarding the best way to incorporate~~
28 ~~the information specified in subparagraph (A) as a required field~~
29 ~~in the statewide database. The Legislature also encourages the~~
30 ~~Department of Justice, the Department of Corrections and~~
31 ~~Rehabilitation, county welfare departments, and county sheriffs~~
32 ~~to develop protocols for facilitating the exchange of information~~
33 ~~regarding the location and sentencing of the incarcerated parent~~
34 ~~or parents of a minor child who is in dependency care. Nothing in~~
35 ~~this subparagraph shall be interpreted to require the department to~~
36 ~~create a new field in the statewide database for incorporating the~~
37 ~~information specified in this subparagraph.~~

38 ~~(3) Notwithstanding any other provision of law, if the~~
39 ~~incarcerated parent is a woman seeking to participate in the~~
40 ~~community treatment program operated by the Department of~~

1 ~~Corrections and Rehabilitation pursuant to Chapter 4.8~~
2 ~~(commencing with Section 1174) of Title 7 of Part 2 of, Chapter~~
3 ~~4 (commencing with Section 3410) of Title 2 of Part 3 of, the Penal~~
4 ~~Code, the court shall determine whether the parent's participation~~
5 ~~in a program is in the child's best interest and whether it is suitable~~
6 ~~to meet the needs of the parent and child.~~

7 ~~(f) If the court, pursuant to paragraph (2), (3), (4), (5), (6), (7),~~
8 ~~(8), (9), (10), (11), (12), (13), (14), or (15) of subdivision (b) or~~
9 ~~paragraph (1) of subdivision (e), does not order reunification~~
10 ~~services, it shall, at the dispositional hearing, that shall include a~~
11 ~~permanency hearing, determine if a hearing under Section 366.26~~
12 ~~shall be set in order to determine whether adoption, guardianship,~~
13 ~~or long-term foster care is the most appropriate plan for the child,~~
14 ~~and shall consider in-state and out-of-state placement options. If~~
15 ~~the court so determines, it shall conduct the hearing pursuant to~~
16 ~~Section 366.26 within 120 days after the dispositional hearing.~~
17 ~~However, the court shall not schedule a hearing so long as the~~
18 ~~other parent is being provided reunification services pursuant to~~
19 ~~subdivision (a). The court may continue to permit the parent to~~
20 ~~visit the child unless it finds that visitation would be detrimental~~
21 ~~to the child.~~

22 ~~(g) (1) Whenever a court orders that a hearing shall be held~~
23 ~~pursuant to Section 366.26, it shall direct the agency supervising~~
24 ~~the 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 agency,~~
27 ~~to prepare an assessment that shall include:~~

28 ~~(A) Current search efforts for an absent parent or parents.~~

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

36 ~~(C) An evaluation of the child's medical, developmental,~~
37 ~~scholastic, mental, and emotional status.~~

38 ~~(D) A preliminary assessment of the eligibility and commitment~~
39 ~~of any identified prospective adoptive parent or guardian,~~
40 ~~particularly the caretaker, to include a social history including~~

1 screening for criminal records and prior referrals for child abuse
2 or neglect, the capability to meet the child's needs, and the
3 understanding of the legal and financial rights and responsibilities
4 of adoption and guardianship. If a proposed guardian is a relative
5 of the minor, and the relative was assessed for foster care placement
6 of the minor prior to January 1, 1998, the assessment shall also
7 consider, but need not be limited to, all of the factors specified in
8 subdivision (a) of Section 361.3. As used in this subparagraph,
9 "relative" means an adult who is related to the minor by blood,
10 adoption, or affinity within the fifth degree of kinship, including
11 stepparents, stepsiblings, and all relatives whose status is preceded
12 by the words "great," "great-great," or "grand," or the spouse of
13 any of those persons even if the marriage was terminated by death
14 or dissolution.

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

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

24 (2) (A) A relative caregiver's preference for legal guardianship
25 over adoption, if it is due to circumstances that do not include an
26 unwillingness to accept legal or financial responsibility for the
27 child, shall not constitute the sole basis for recommending removal
28 of the child from the relative caregiver for purposes of adoptive
29 placement.

30 (B) A relative caregiver shall be given information regarding
31 the permanency options of guardianship and adoption, including
32 the long-term benefits and consequences of each option, prior to
33 establishing legal guardianship or pursuing adoption.

34 (h) In determining whether reunification services will benefit
35 the child pursuant to paragraph (6) or (7) of subdivision (b), the
36 court shall consider any information it deems relevant, including
37 the following factors:

38 (1) The specific act or omission comprising the severe sexual
39 abuse or the severe physical harm inflicted on the child or the
40 child's sibling or half sibling.

~~(2) The circumstances under which the abuse or harm was inflicted on the child or the child's sibling or half sibling.~~

~~(3) The severity of the emotional trauma suffered by the child or the child's sibling or half sibling.~~

~~(4) Any history of abuse of other children by the offending parent or guardian.~~

~~(5) The likelihood that the child may be safely returned to the care of the offending parent or guardian within 12 months with no continuing supervision.~~

~~(6) Whether or not the child desires to be reunified with the offending parent or guardian.~~

~~(i) The court shall read into the record the basis for a finding of severe sexual abuse or the infliction of severe physical harm under paragraph (6) of subdivision (b), and shall also specify the factual findings used to determine that the provision of reunification services to the offending parent or guardian would not benefit the child.~~

~~SEC. 2.~~

SECTION 1. Section 16501.1 of the Welfare and Institutions Code is amended to read:

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

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

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

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

(3) Upon a determination pursuant to subparagraph (B) of subdivision (e) of Section 361.5 that reasonable services will be

1 offered to a parent who is incarcerated in a county jail or state
2 prison, the case plan shall include information, to the extent
3 possible, about a parent's incarceration in a county jail or the state
4 prison during the time that a minor child of that parent is
5 involved in dependency care.

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

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

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

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

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

1 the services that have been provided to the child under the plan
2 and an evaluation of the appropriateness and effectiveness of those
3 services.

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

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

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

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

21 (1) The case plan shall be based upon an assessment of the
22 circumstances that required child welfare services intervention.
23 The child shall be involved in developing the case plan as age and
24 developmentally appropriate.

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

27 (3) The case plan shall identify the original allegations of abuse
28 or neglect, as defined in Article 2.5 (commencing with Section
29 11164) of Chapter 2 of Title 1 of Part 4 of the Penal Code, or the
30 conditions cited as the basis for declaring the child a dependent of
31 the court pursuant to Section 300, or all of these, and the other
32 precipitating incidents that led to child welfare services
33 intervention.

34 (4) The case plan shall include a description of the schedule of
35 the social worker contacts with the child and the family or other
36 caretakers. The frequency of these contacts shall be in accordance
37 with regulations adopted by the State Department of Social
38 Services. If the child has been placed in foster care out of state,
39 the county social worker or a social worker on the staff of the
40 social services agency in the state in which the child has been

placed shall visit the child in a foster family home or the home of a relative, consistent with federal law and in accordance with the department's approved state plan. For children in out-of-state group home facilities, visits shall be conducted at least monthly, pursuant to Section 16516.5. At least once every six months, at the time of a regularly scheduled social worker contact with the foster child, the child's social worker shall inform the child of his or her rights as a foster child, as specified in Section 16001.9. The social worker shall provide the information to the child in a manner appropriate to the age or developmental level of the child.

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

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

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

(A) The death of an immediate relative.

(B) The birth of a sibling.

(C) Significant changes regarding a dependent child, unless the child objects to the sharing of the information with his or her siblings, including changes in placement, major medical or mental

1 health diagnoses, treatments, or hospitalizations, arrests, and
2 changes in the permanent plan.

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

11 (8) Effective January 1, 2010, a case plan shall ensure the
12 educational stability of the child while in foster care and shall
13 include both of the following:

14 (A) An assurance that the placement takes into account the
15 appropriateness of the current educational setting and the proximity
16 to the school in which the child is enrolled at the time of placement.

17 (B) An assurance that the placement agency has coordinated
18 with appropriate local educational agencies to ensure that the child
19 remains in the school in which the child is enrolled at the time of
20 placement, or, if remaining in that school is not in the best interests
21 of the child, assurances by the placement agency and the local
22 educational agency to provide immediate and appropriate
23 enrollment in a new school and to provide all of the child's
24 educational records to the new school.

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

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

1 (10) If out-of-home services are used and the goal is
2 reunification, the case plan shall describe the services to be
3 provided to assist in reunification and the services to be provided
4 concurrently to achieve legal permanency if efforts to reunify fail.
5 The plan shall also consider in-state and out-of-state placements,
6 the importance of developing and maintaining sibling relationships
7 pursuant to Section 16002, and the desire and willingness of the
8 caregiver to provide legal permanency for the child if reunification
9 is unsuccessful.

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

20 (12) (A) Parents and legal guardians shall have an opportunity
21 to review the case plan, and to sign it whenever possible, and then
22 shall receive a copy of the plan. In any voluntary service or
23 placement agreement, the parents or legal guardians shall be
24 required to review and sign the case plan. Whenever possible,
25 parents and legal guardians shall participate in the development
26 of the case plan.

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

37 (13) A child shall be given a meaningful opportunity to
38 participate in the development of the case plan and state his or her
39 preference for foster care placement. A child who is 12 years of
40 age or older and in a permanent placement shall also be given the

1 opportunity to review the case plan, sign the case plan, and receive
2 a copy of the case plan.

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

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

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

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

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

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

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

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

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

33 ~~SEC. 2.5.~~

34 *SEC. 1.5* Section 16501.1 of the Welfare and Institutions Code
35 is amended to read:

36 16501.1. (a) (1) The Legislature finds and declares that the
37 foundation and central unifying tool in child welfare services is
38 the case plan.

39 (2) The Legislature further finds and declares that a case plan
40 ensures that the child receives protection and safe and proper care

1 and case management, and that services are provided to the child
2 and parents or other caretakers, as appropriate, in order to improve
3 conditions in the parent's home, to facilitate the safe return of the
4 child to a safe home or the permanent placement of the child, and
5 to address the needs of the child while in foster care.

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

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

14 (3) Upon a determination pursuant to subparagraph (B) of
15 subdivision (e) of Section 361.5 that reasonable services will be
16 offered to a parent who is incarcerated in a county jail or state
17 prison, the case plan shall include information, to the extent
18 possible, about a parent's incarceration in a county jail or the state
19 prison during the time that a minor child of that parent is
20 involved in dependency care.

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

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

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

39 (2) In addition to the requirements of paragraph (1), and taking
40 into account other statutory considerations regarding placement,

1 the selection of the most appropriate home that will meet the child's
2 special needs and best interests shall also promote educational
3 stability by taking into consideration proximity to the child's school
4 attendance area.

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

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

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

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

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

36 (1) The case plan shall be based upon an assessment of the
37 circumstances that required child welfare services intervention.
38 The child shall be involved in developing the case plan as age and
39 developmentally appropriate.

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

3 (3) The case plan shall identify the original allegations of abuse
4 or neglect, as defined in Article 2.5 (commencing with Section
5 11164) of Chapter 2 of Title 1 of Part 4 of the Penal Code, or the
6 conditions cited as the basis for declaring the child a dependent of
7 the court pursuant to Section 300, or all of these, and the other
8 precipitating incidents that led to child welfare services
9 intervention.

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

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

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

37 (6) When out-of-home placement is made, the case plan shall
38 include provisions for the development and maintenance of sibling
39 relationships as specified in subdivisions (b), (c), and (d) of Section
40 16002. If appropriate, when siblings who are dependents of the

1 juvenile court are not placed together, the social worker for each
2 child, if different, shall communicate with each of the other social
3 workers and ensure that the child's siblings are informed of
4 significant life events that occur within their extended family.
5 Unless it has been determined that it is inappropriate in a particular
6 case to keep siblings informed of significant life events that occur
7 within the extended family, the social worker shall determine the
8 appropriate means and setting for disclosure of this information
9 to the child commensurate with the child's age and emotional
10 well-being. These significant life events shall include, but shall
11 not be limited to, the following:

12 (A) The death of an immediate relative.

13 (B) The birth of a sibling.

14 (C) Significant changes regarding a dependent child, unless the
15 child objects to the sharing of the information with his or her
16 siblings, including changes in placement, major medical or mental
17 health diagnoses, treatments, or hospitalizations, arrests, and
18 changes in the permanent plan.

19 (7) If out-of-home placement is made in a foster family home,
20 group home, or other child care institution that is either a
21 substantial distance from the home of the child's parent or out of
22 state, the case plan shall specify the reasons why that placement
23 is in the best interest of the child. When an out-of-state group home
24 placement is recommended or made, the case plan shall, in
25 addition, specify compliance with Section 7911.1 of the Family
26 Code.

27 (8) Effective January 1, 2010, a case plan shall ensure the
28 educational stability of the child while in foster care and shall
29 include both of the following:

30 (A) An assurance that the placement takes into account the
31 appropriateness of the current educational setting and the proximity
32 to the school in which the child is enrolled at the time of placement.

33 (B) An assurance that the placement agency has coordinated
34 with appropriate local educational agencies to ensure that the child
35 remains in the school in which the child is enrolled at the time of
36 placement, or, if remaining in that school is not in the best interests
37 of the child, assurances by the placement agency and the local
38 educational agency to provide immediate and appropriate
39 enrollment in a new school and to provide all of the child's
40 educational records to the new school.

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

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

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

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

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

1 parents and legal guardians shall participate in the development
2 of the case plan.

3 (B) Parents and legal guardians shall be advised that, pursuant
4 to Section 1228.1 of the Evidence Code, neither their signature on
5 the child welfare services case plan nor their acceptance of any
6 services prescribed in the child welfare services case plan shall
7 constitute an admission of guilt or be used as evidence against the
8 parent or legal guardian in a court of law. However, they shall also
9 be advised that the parent's or guardian's failure to cooperate,
10 except for good cause, in the provision of services specified in the
11 child welfare services case plan may be used in any hearing held
12 pursuant to Section 366.21 or 366.22 as evidence.

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

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

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

1 (16) (A) When appropriate, for a child who is 16 years of age
2 or older, the case plan shall include a written description of the
3 programs and services that will help the child, consistent with the
4 child's best interests, prepare for the transition from foster care to
5 independent living. The case plan shall be developed with the child
6 and individuals identified as important to the child, and shall
7 include steps the agency is taking to ensure that the child has a
8 connection to a caring adult.

9 (B) During the 90-day period prior to the participant attaining
10 18 years of age or older as the state may elect under Section
11 475(8)(B)(iii) (42 U.S.C. Sec. 675(8)(B)(iii)) of the federal Social
12 Security Act, whether during that period foster care maintenance
13 payments are being made on the child's behalf or the child is
14 receiving benefits or services under Section 477 (42 U.S.C. Sec.
15 677) of the federal Social Security Act, a caseworker or other
16 appropriate agency staff or probation officer and other
17 representatives of the participant, as appropriate, must address, in
18 the written transitional independent living plan, that is personalized
19 at the direction of the child, information as detailed as the
20 participant elects that shall include, but not be limited to, options
21 regarding housing, health insurance, education, local opportunities
22 for mentors and continuing support services, and workforce
23 supports and employment services.

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

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

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

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

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

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

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

24 *SEC. 2. Section 16501.8 is added to the Welfare and Institutions*
25 *Code, to read:*

26 *16501.8. (a) Once a consistent data entry field or fields have*
27 *been designated in the statewide child welfare database, social*
28 *workers shall make reasonable efforts to collect and update*
29 *necessary data regarding a child's incarcerated parent or parents.*

30 *(b) The Legislature encourages the State Department of Social*
31 *Services to consult with the county welfare directors regarding*
32 *the best way to incorporate the information specified in subdivision*
33 *(a) as a required field in the statewide database. The Legislature*
34 *also encourages the Department of Justice, the Department of*
35 *Corrections and Rehabilitation, county welfare departments, and*
36 *county sheriffs to develop protocols for facilitating the exchange*
37 *of information regarding the location and sentencing of the*
38 *incarcerated parent or parents of a minor child who is in*
39 *dependency care.*

1 (c) *Nothing in this section shall be interpreted to require the*
2 *department to create a new field in the statewide database for*
3 *incorporating the information specified in this section.*

4 SEC. 3. Section-2.5 1.5 of this bill incorporates amendments
5 to Section 16501.1 of the Welfare and Institutions Code proposed
6 by both this bill and SB 597. It shall only become operative if (1)
7 both bills are enacted and become effective on or before January
8 1, 2010, (2) each bill amends Section 16501.1 of the Welfare and
9 Institutions Code, and (3) this bill is enacted after SB 597, in which
10 case Section-2 1 of this bill shall not become operative.

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