

AMENDED IN ASSEMBLY JUNE 29, 2017
AMENDED IN ASSEMBLY JUNE 19, 2017
AMENDED IN SENATE MAY 26, 2017
AMENDED IN SENATE APRIL 27, 2017
AMENDED IN SENATE APRIL 18, 2017
AMENDED IN SENATE MARCH 29, 2017
AMENDED IN SENATE MARCH 9, 2017

SENATE BILL

No. 233

**Introduced by Senator Beall
(Coauthors: Senators Mendoza, Vidak, and Wilk)**

February 6, 2017

An act to amend Sections 49069.3 and 49076 of the Education Code, and to amend Sections 361, 361.5, 366.1, 366.21, 366.22, 16010, and 16010.4 of, and to add Sections 16501.16 and 16519.57 to, the Welfare and Institutions Code, relating to foster child records.

LEGISLATIVE COUNSEL'S DIGEST

SB 233, as amended, Beall. Foster children: records.

(1) Existing law provides that parents of currently enrolled or former pupils have an absolute right to access any and all pupil records related to their children that are maintained by school districts or private schools. Existing law prohibits a school district from permitting access to pupil records to a person without written parental consent or under judicial order except as authorized by specified state and federal law. Existing law authorizes foster family agencies with jurisdiction over currently enrolled or former pupils to access records of grades and

transcripts, and any individualized education plans developed pursuant to specified law maintained by school districts or private schools of those pupils.

This bill would add to the information that may be accessed records of attendance, discipline, and online communication on platforms established by schools for pupils and parents, and any plan adopted pursuant to specified federal law, as provided, and would require that these records be the current or most recent records for the pupil. The bill would additionally authorize a short-term residential treatment program staff responsible for the education or case management of a pupil and a caregiver who has direct responsibility for the care of the pupil, including a certified or licensed foster parent, an approved relative or nonrelated extended family member, or a resource family, as defined, to access this information, and would provide that a caregiver may access this information regardless of whether the caregiver has been appointed as the pupil's educational rights holder pursuant to specified law. The bill would authorize a foster family agency, short-term residential treatment program, or caregiver to review and receive these pupil records for specified purposes. The bill would require a child's caregiver to be responsible for reviewing and receiving these pupil records for those same purposes. To the extent the bill would impose additional duties on school districts, it would impose a state-mandated local program.

The bill would require, if direct communication between a caregiver and an educational rights holder is appropriate, a caregiver who is not the pupil's educational rights holder to notify the pupil's educational rights holder ~~holder~~ *holder, and, in specified instances, the pupil's social worker*, of any educational needs of the pupil that require the educational rights holder's consent or participation. If direct communication between a caregiver and an educational rights holder is inappropriate, the bill would require the pupil's social worker to direct the caregiver to communicate that information with the pupil's social worker or attorney instead of the educational rights holder.

(2) Existing law establishes the jurisdiction of the juvenile court, which may adjudge children to be dependents of the court under certain circumstances, including when the child suffered or there is a substantial risk that the child will suffer serious physical harm, or a parent fails to provide the child with adequate food, clothing, shelter, or medical treatment. Existing law establishes the grounds for removal of a dependent child from the custody of his or her parents or guardian, and

establishes procedures to determine temporary and permanent placement of a dependent child. Existing law prescribes various hearings, including specified review hearings, and other procedures for these purposes. Whenever a court orders a hearing to terminate parental rights to, or to establish legal guardianship of, a dependent child to be held, existing law requires the court to direct the agency supervising the child and the county adoption agency, or the State Department of Social Services when it is acting as an adoption agency, to prepare an assessment and requires this assessment to include, among other things, a preliminary assessment of the eligibility and commitment of any identified prospective adoptive parent or legal guardian, as specified, and including an evaluation of the child's medical, developmental, scholastic, mental, and emotional status. Existing law further requires the status of every dependent child in foster care to be reviewed periodically as determined by the court but no less frequently than once every 6 months.

This bill would require the above evaluation and review to include providing a copy of the complete health and education summary, as specified. The bill would make conforming changes. By increasing the duties on county staff, the bill would impose a state-mandated local program.

Existing law requires, when a child is placed in foster care, the case plan to include a summary of the health and education information or records, including mental health information, of the child. Existing law requires a child protective agency to, as soon as possible, but not later than 30 days after initial placement of a child into foster care, provide the caregiver with the child's current health and education summary.

This bill would also require the case plan to include the name and contact information of the person or persons currently holding the right to make educational decisions for the ~~child~~ *child, except as specified*, and would make other conforming changes. By expanding the duties of counties relating to the placement of foster children, this bill would impose a state-mandated local program.

Existing law makes various findings and declarations with regard to foster parents and caregivers, including that caregivers should have certain basic information, including among other things, a plan outlining the child's needs and services, including information on family and sibling visitation.

This bill would provide that a caregiver should also have access to a copy of the health and education summary, as specified, and would

provide that a caregiver should have knowledge of the importance of the caregiver’s role in education, as specified.

Existing law requires the State Department of Social Services to implement the resource family approval process in all counties and with all foster family agencies. Existing law requires counties to be responsible for various implementing tasks, including, among other things, ensuring a resource family applicant completes a minimum of 12 hours of caregiver training, including training on permanence, well-being, and education needs of children.

This bill would require counties to ensure that the above training includes, among other things, training on the importance of the caregiver’s role in education, as specified. By increasing duties on county staff, the bill would impose a state-mandated local program.

(3) 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 with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

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. It is the intent of the Legislature to declare that
 2 caregivers are a key component to the educational success and the
 3 well-being of pupils in foster care and the use of pupil records by
 4 caregivers will be used solely for the purpose of fulfilling their
 5 responsibilities to positively support the educational needs of foster
 6 children and to maintain an updated education summary for the
 7 child welfare agency pursuant to existing law. All education
 8 information received is intended to improve the coordination of
 9 education services between caregivers, educational rights holders,
 10 pupils, child welfare agencies, and schools. Caregivers have a
 11 responsibility to communicate with the child’s educational rights
 12 holder whenever the caregiver has information that could help the
 13 educational rights holder make a decision on behalf of the best

1 interests of the child. Caregivers shall have no authority to use
2 pupil records against a foster child to limit his or her access to
3 educational support services, stigmatize the foster child, or cause
4 any harm to the child.

5 SEC. 2. Section 49069.3 of the Education Code is amended to
6 read:

7 49069.3. (a) A foster family agency with jurisdiction over a
8 currently enrolled or former pupil, a short-term residential
9 treatment program staff responsible for the education or case
10 management of a pupil, and a caregiver who has direct
11 responsibility for the care of the pupil, including a certified or
12 licensed foster parent, an approved relative or nonrelated extended
13 family member, or a resource family, as defined in Section 1517
14 of the Health and Safety Code and Section 16519.5 of the Welfare
15 and Institutions Code, may access the current or most recent
16 records of grades, transcripts, attendance, discipline, and online
17 communication on platforms established by schools for pupils and
18 parents, and any individualized education programs (IEP) that may
19 have been developed pursuant to Chapter 4 (commencing with
20 Section 56300) of Part 30 or any plan adopted pursuant to Section
21 504 of the federal Rehabilitation Act of 1973 (29 U.S.C. Sec.
22 794(a)) maintained by school districts or private schools of that
23 pupil. A caregiver, pursuant to this section, may access the
24 information specified in this section regardless of whether the
25 caregiver has been appointed as the pupil's educational rights
26 holder pursuant to Section 319, 361, or 726 of the Welfare and
27 Institutions Code.

28 (b) A foster family agency, short-term residential treatment
29 program, or caregiver may review and receive pupil records
30 pursuant to subdivision (a) for purposes of monitoring the pupil's
31 educational progress, updating and maintaining the pupil's
32 education records as required by Section 16010 of the Welfare and
33 Institutions Code, and ensuring the pupil has access to educational
34 services, supports, and activities. These purposes include, but are
35 not limited to, enrolling the pupil in school, assisting the pupil
36 with homework, class assignments, and college and scholarship
37 applications, and enrolling the pupil in extracurricular activities,
38 tutoring, and other afterschool and summer enrichment programs.

39 (c) (1) If direct communication between a caregiver and an
40 educational rights holder is appropriate, a caregiver who is not the

1 pupil's educational rights holder shall notify the pupil's educational
2 rights holder of any educational needs of the pupil that require the
3 educational rights holder's consent or participation, including, but
4 not limited to, school placement decisions, decisions on whether
5 to invoke or waive school of origin rights, consent for special
6 education assessments and individualized education programs,
7 meetings or hearings regarding attendance or discipline, and
8 decisions regarding graduation. *In instances involving significant*
9 *discipline or that potentially impact a pupil's continued enrollment*
10 *and progress in school, the caregiver shall also provide the same*
11 *information to the pupil's social worker as is provided to the*
12 *educational rights holder.*

13 (2) If direct communication between a caregiver and an
14 educational rights holder is inappropriate, the pupil's social worker
15 shall direct the caregiver to communicate the information specified
16 in paragraph (1) with the pupil's social worker or attorney instead
17 of the educational rights holder.

18 (3) Nothing in this subdivision affects the responsibilities of a
19 placement agency with regard to the education of a pupil.

20 (4) *This subdivision shall not be construed to alter or increase*
21 *a social worker's or attorney's decisionmaking rights and*
22 *responsibilities regarding a pupil.*

23 (d) Nothing in this section affects the duties of a local
24 educational agency related to informing and involving educational
25 rights holders in educational decisions affecting the child.

26 SEC. 3. Section 49076 of the Education Code is amended to
27 read:

28 49076. (a) A school district shall not permit access to pupil
29 records to a person without written parental consent or under
30 judicial order except as set forth in this section and as permitted
31 by Part 99 (commencing with Section 99.1) of Title 34 of the Code
32 of Federal Regulations.

33 (1) Access to those particular records relevant to the legitimate
34 educational interests of the requester shall be permitted to the
35 following:

36 (A) School officials and employees of the school district,
37 members of a school attendance review board appointed pursuant
38 to Section 48321 who are authorized representatives of the school
39 district, and any volunteer aide, 18 years of age or older, who has
40 been investigated, selected, and trained by a school attendance

1 review board for the purpose of providing followup services to
2 pupils referred to the school attendance review board, provided
3 that the person has a legitimate educational interest to inspect a
4 record.

5 (B) Officials and employees of other public schools or school
6 systems, including local, county, or state correctional facilities
7 where educational programs leading to high school graduation are
8 provided or where the pupil intends to or is directed to enroll,
9 subject to the rights of parents as provided in Section 49068.

10 (C) Authorized representatives of the Comptroller General of
11 the United States, the United States Secretary of Education, and
12 state and local educational authorities, or the United States
13 Department of Education's Office for Civil Rights, if the
14 information is necessary to audit or evaluate a state or federally
15 supported educational program, or in connection with the
16 enforcement of, or compliance with, the federal legal requirements
17 that relate to such a program. Records released pursuant to this
18 subparagraph shall comply with the requirements of Section 99.35
19 of Title 34 of the Code of Federal Regulations.

20 (D) Other state and local officials to the extent that information
21 is specifically required to be reported pursuant to state law adopted
22 before November 19, 1974.

23 (E) Parents of a pupil 18 years of age or older who is a
24 dependent as defined in Section 152 of Title 26 of the United States
25 Code.

26 (F) A pupil 16 years of age or older or having completed the
27 10th grade.

28 (G) A district attorney who is participating in or conducting a
29 truancy mediation program pursuant to Section 48263.5 of this
30 code or Section 601.3 of the Welfare and Institutions Code, or
31 participating in the presentation of evidence in a truancy petition
32 pursuant to Section 681 of the Welfare and Institutions Code.

33 (H) A district attorney's office for consideration against a parent
34 or guardian for failure to comply with the Compulsory Education
35 Law (Chapter 2 (commencing with Section 48200)) or with
36 Compulsory Continuation Education (Chapter 3 (commencing
37 with Section 48400)).

38 (I) (i) A probation officer, district attorney, or counsel of record
39 for a minor for purposes of conducting a criminal investigation or

1 an investigation in regards to declaring a person a ward of the court
2 or involving a violation of a condition of probation.

3 (ii) For purposes of this subparagraph, a probation officer,
4 district attorney, and counsel of record for a minor shall be deemed
5 to be local officials for purposes of Section 99.31(a)(5)(i) of Title
6 34 of the Code of Federal Regulations.

7 (iii) Pupil records obtained pursuant to this subparagraph shall
8 be subject to the evidentiary rules described in Section 701 of the
9 Welfare and Institutions Code.

10 (J) A judge or probation officer for the purpose of conducting
11 a truancy mediation program for a pupil, or for purposes of
12 presenting evidence in a truancy petition pursuant to Section 681
13 of the Welfare and Institutions Code. The judge or probation officer
14 shall certify in writing to the school district that the information
15 will be used only for truancy purposes. A school district releasing
16 pupil information to a judge or probation officer pursuant to this
17 subparagraph shall inform, or provide written notification to, the
18 parent or guardian of the pupil within 24 hours of the release of
19 the information.

20 (K) A county placing agency when acting as an authorized
21 representative of a state or local educational agency pursuant to
22 subparagraph (C). School districts, county offices of education,
23 and county placing agencies may develop cooperative agreements
24 to facilitate confidential access to and exchange of the pupil
25 information by email, facsimile, electronic format, or other secure
26 means, if the agreement complies with the requirements set forth
27 in Section 99.35 of Title 34 of the Code of Federal Regulations.

28 (L) A pupil 14 years of age or older who meets both of the
29 following criteria:

30 (i) The pupil is a homeless child or youth, as defined in
31 paragraph (2) of Section 725 of the federal McKinney-Vento
32 Homeless Assistance Act (42 U.S.C. Sec. 11434a(2)).

33 (ii) The pupil is an unaccompanied youth, as defined in
34 paragraph (6) of Section 725 of the federal McKinney-Vento
35 Homeless Assistance Act (42 U.S.C. Sec. 11434a(6)).

36 (M) An individual who completes items 1 to 4, inclusive, of the
37 Caregiver's Authorization Affidavit, as provided in Section 6552
38 of the Family Code, and signs the affidavit for the purpose of
39 enrolling a minor in school.

1 (N) (i) An agency caseworker or other representative of a state
2 or local child welfare agency, or tribal organization, as defined in
3 Section 450b of Title 25 of the United States Code, that has legal
4 responsibility, in accordance with state or tribal law, for the care
5 and protection of the pupil.

6 (ii) The agency or organization specified in clause (i) may
7 disclose pupil records, or the personally identifiable information
8 contained in those records, to an individual or entity engaged in
9 addressing the pupil’s educational needs, if the individual or entity
10 is authorized by the agency or organization to receive the disclosure
11 and the information requested is directly related to the assistance
12 provided by that individual or entity. The records, or the personally
13 identifiable information contained in those records, shall not
14 otherwise be disclosed by that agency or organization, except as
15 provided under the federal Family Educational Rights and Privacy
16 Act (20 U.S.C. Sec. 1232g), state law, including paragraph (3),
17 and tribal law.

18 (O) A foster family agency with jurisdiction over a currently
19 enrolled or former pupil, a short-term residential treatment program
20 staff responsible for the education or case management of a pupil,
21 and a caregiver who has direct responsibility for the care of the
22 pupil, including a certified or licensed foster parent, an approved
23 relative or nonrelated extended family member, or a resource
24 family, as defined in Section 1517 of the Health and Safety Code
25 and Section 16519.5 of the Welfare and Institutions Code, pursuant
26 to Section 49069.3 of this code.

27 (2) School districts may release information from pupil records
28 to the following:

29 (A) Appropriate persons in connection with an emergency if
30 the knowledge of the information is necessary to protect the health
31 or safety of a pupil or other persons. Schools or school districts
32 releasing information pursuant to this subparagraph shall comply
33 with the requirements set forth in Section 99.32(a)(5) of Title 34
34 of the Code of Federal Regulations.

35 (B) Agencies or organizations in connection with the application
36 of a pupil for, or receipt of, financial aid. However, information
37 permitting the personal identification of a pupil or his or her parents
38 may be disclosed only as may be necessary for purposes as to
39 determine the eligibility of the pupil for financial aid, to determine
40 the amount of the financial aid, to determine the conditions that

1 will be imposed regarding the financial aid, or to enforce the terms
2 or conditions of the financial aid.

3 (C) Pursuant to Section 99.37 of Title 34 of the Code of Federal
4 Regulations, a county elections official, for the purpose of
5 identifying pupils eligible to register to vote, or for conducting
6 programs to offer pupils an opportunity to register to vote. The
7 information shall not be used for any other purpose or given or
8 transferred to any other person or agency.

9 (D) Accrediting associations in order to carry out their
10 accrediting functions.

11 (E) Organizations conducting studies for, or on behalf of,
12 educational agencies or institutions for purposes of developing,
13 validating, or administering predictive tests, administering student
14 aid programs, and improving instruction, if the studies are
15 conducted in a manner that will not permit the personal
16 identification of pupils or their parents by persons other than
17 representatives of the organizations, the information will be
18 destroyed when no longer needed for the purpose for which it is
19 obtained, and the organization enters into a written agreement with
20 the educational agency or institution that complies with Section
21 99.31(a)(6) of Title 34 of the Code of Federal Regulations.

22 (F) Officials and employees of private schools or school systems
23 where the pupil is enrolled or intends to enroll, subject to the rights
24 of parents as provided in Section 49068 and in compliance with
25 the requirements in Section 99.34 of Title 34 of the Code of Federal
26 Regulations. This information shall be in addition to the pupil's
27 permanent record transferred pursuant to Section 49068.

28 (G) (i) A contractor or consultant with a legitimate educational
29 interest who has a formal written agreement or contract with the
30 school district regarding the provision of outsourced institutional
31 services or functions by the contractor or consultant.

32 (ii) Notwithstanding the authorization in Section
33 99.31(a)(1)(i)(B) of Title 34 of the Code of Federal Regulations,
34 a disclosure pursuant to this subparagraph shall not be permitted
35 to a volunteer or other party.

36 (3) A person, persons, agency, or organization permitted access
37 to pupil records pursuant to this section shall not permit access to
38 any information obtained from those records by another person,
39 persons, agency, or organization, except for allowable exceptions
40 contained within the federal Family Educational Rights and Privacy

1 Act (20 U.S.C. Sec. 1232g) and state law, including this section,
2 and implementing regulations, without the written consent of the
3 pupil's parent. This paragraph shall not require prior parental
4 consent when information obtained pursuant to this section is
5 shared with other persons within the educational institution, agency,
6 or organization obtaining access, so long as those persons have a
7 legitimate educational interest in the information pursuant to
8 Section 99.31(a)(1) of Title 34 of the Code of Federal Regulations.

9 (4) Notwithstanding any other law, a school district, including
10 a county office of education or county superintendent of schools,
11 may participate in an interagency data information system that
12 permits access to a computerized database system within and
13 between governmental agencies or school districts as to information
14 or records that are nonprivileged, and where release is authorized
15 as to the requesting agency under state or federal law or regulation,
16 if each of the following requirements is met:

17 (A) Each agency and school district shall develop security
18 procedures or devices by which unauthorized personnel cannot
19 access data contained in the system.

20 (B) Each agency and school district shall develop procedures
21 or devices to secure privileged or confidential data from
22 unauthorized disclosure.

23 (C) Each school district shall comply with the access log
24 requirements of Section 49064.

25 (D) The right of access granted shall not include the right to
26 add, delete, or alter data without the written permission of the
27 agency holding the data.

28 (E) An agency or school district shall not make public or
29 otherwise release information on an individual contained in the
30 database if the information is protected from disclosure or release
31 as to the requesting agency by state or federal law or regulation.

32 (b) The officials and authorities to whom pupil records are
33 disclosed pursuant to subdivision (e) of Section 48902 and
34 subparagraph (I) of paragraph (1) of subdivision (a) shall certify
35 in writing to the disclosing school district that the information
36 shall not be disclosed to another party, except as provided under
37 the federal Family Educational Rights and Privacy Act (20 U.S.C.
38 Sec. 1232g) and state law, without the prior written consent of the
39 parent of the pupil or the person identified as the holder of the
40 pupil's educational rights.

1 (c) (1) A person or party who is not permitted access to pupil
2 records pursuant to subdivision (a) or (b) may request access to
3 pupil records as provided for in paragraph (2).

4 (2) A local educational agency or other person or party who has
5 received pupil records, or information from pupil records, may
6 release the records or information to a person or party identified
7 in paragraph (1) without the consent of the pupil's parent or
8 guardian pursuant to Section 99.31(b) of Title 34 of the Code of
9 Federal Regulations, if the records or information are deidentified,
10 which requires the removal of all personally identifiable
11 information, if the disclosing local educational agency or other
12 person or party has made a reasonable determination that a pupil's
13 identity is not personally identifiable, whether through single or
14 multiple releases, and has taken into account other pertinent
15 reasonably available information.

16 SEC. 4. Section 361 of the Welfare and Institutions Code is
17 amended to read:

18 361. (a) (1) In all cases in which a minor is adjudged a
19 dependent child of the court on the ground that the minor is a
20 person described by Section 300, the court may limit the control
21 to be exercised over the dependent child by any parent or guardian
22 and shall by its order clearly and specifically set forth all those
23 limitations. Any limitation on the right of the parent or guardian
24 to make educational or developmental services decisions for the
25 child shall be specifically addressed in the court order. The
26 limitations may not exceed those necessary to protect the child. If
27 the court specifically limits the right of the parent or guardian to
28 make educational or developmental services decisions for the child,
29 or, for the nonminor dependent, if the court finds the appointment
30 of a developmental services decisionmaker to be in the best
31 interests of the nonminor dependent, the court shall at the same
32 time appoint a responsible adult to make educational or
33 developmental services decisions for the child or nonminor
34 dependent until one of the following occurs:

35 (A) The minor reaches 18 years of age, unless the child or
36 nonminor dependent chooses not to make educational or
37 developmental services decisions for himself or herself, or is
38 deemed by the court to be incompetent.

1 (B) Another responsible adult is appointed to make educational
2 or developmental services decisions for the minor pursuant to this
3 section.

4 (C) The right of the parent or guardian to make educational or
5 developmental services decisions for the minor is fully restored.

6 (D) A successor guardian or conservator is appointed.

7 (E) The child is placed into a planned permanent living
8 arrangement pursuant to paragraph (5) of subdivision (g) of Section
9 366.21, Section 366.22, Section 366.26, or subdivision (i) of
10 Section 366.3, at which time, for educational decisionmaking, the
11 foster parent, relative caretaker, or nonrelative extended family
12 member as defined in Section 362.7, has the right to represent the
13 child in educational matters pursuant to Section 56055 of the
14 Education Code, and for decisions relating to developmental
15 services, unless the court specifies otherwise, the foster parent,
16 relative caregiver, or nonrelative extended family member of the
17 planned permanent living arrangement has the right to represent
18 the child or nonminor dependent in matters related to
19 developmental services.

20 (2) An individual who would have a conflict of interest in
21 representing the child or nonminor dependent shall not be
22 appointed to make educational or developmental services decisions.
23 For purposes of this section, “an individual who would have a
24 conflict of interest” means a person having any interests that might
25 restrict or bias his or her ability to make educational or
26 developmental services decisions, including, but not limited to,
27 those conflicts of interest prohibited by Section 1126 of the
28 Government Code, and the receipt of compensation or attorney’s
29 fees for the provision of services pursuant to this section. A foster
30 parent shall not be deemed to have a conflict of interest solely
31 because he or she receives compensation for the provision of
32 services pursuant to this section.

33 (3) Regardless of the person or persons currently holding the
34 right to make educational decisions for the child, a foster parent,
35 relative caregiver, nonrelated extended family member, or resource
36 family shall retain rights and obligations regarding accessing and
37 maintaining health and education information pursuant to Sections
38 49069.3 and 49076 of the Education Code and Section 16010 of
39 this code.

1 (4) (A) If the court limits the parent's educational rights
2 pursuant to this subdivision, the court shall determine whether
3 there is a responsible adult who is a relative, nonrelative extended
4 family member, or other adult known to the child who is available
5 and willing to serve as the child's educational representative before
6 appointing an educational representative or surrogate who is not
7 known to the child.

8 (B) If the court cannot identify a responsible adult who is known
9 to the child and available to make educational decisions for the
10 child, subparagraphs (A) to (E), inclusive, of paragraph (1) do not
11 apply, and the child has either been referred to the local educational
12 agency for special education and related services, or has a valid
13 individualized education program, the court shall refer the child
14 to the local educational agency for appointment of a surrogate
15 parent pursuant to Section 7579.5 of the Government Code.

16 (C) If the court cannot identify a responsible adult to make
17 educational decisions for the child, the appointment of a surrogate
18 parent as defined in subdivision (a) of Section 56050 of the
19 Education Code is not warranted, and there is no foster parent to
20 exercise the authority granted by Section 56055 of the Education
21 Code, the court may, with the input of any interested person, make
22 educational decisions for the child.

23 (5) (A) If the court appoints a developmental services
24 decisionmaker pursuant to this section, he or she shall have the
25 authority to access the child's or nonminor dependent's information
26 and records pursuant to subdivision (u) of Section 4514 and
27 subdivision (y) of Section 5328, and to act on the child's or
28 nonminor dependent's behalf for the purposes of the individual
29 program plan process pursuant to Sections 4646, 4646.5, and 4648
30 and the fair hearing process pursuant to Chapter 7 (commencing
31 with Section 4700) of Division 4.5, and as set forth in the court
32 order.

33 (B) If the court cannot identify a responsible adult to make
34 developmental services decisions for the child or nonminor
35 dependent, the court may, with the input of any interested person,
36 make developmental services decisions for the child or nonminor
37 dependent. If the child is receiving services from a regional center,
38 the provision of any developmental services related to the court's
39 decision must be consistent with the child's or nonminor
40 dependent's individual program plan and pursuant to the provisions

1 of the Lanterman Developmental Disabilities Services Act
2 (Division 4.5 (commencing with Section 4500)).

3 (6) All educational and school placement decisions shall seek
4 to ensure that the child is in the least restrictive educational
5 programs and has access to the academic resources, services, and
6 extracurricular and enrichment activities that are available to all
7 pupils. In all instances, educational and school placement decisions
8 shall be based on the best interests of the child. If an educational
9 representative or surrogate is appointed for the child, the
10 representative or surrogate shall meet with the child, shall
11 investigate the child's educational needs and whether those needs
12 are being met, and shall, prior to each review hearing held under
13 this article, provide information and recommendations concerning
14 the child's educational needs to the child's social worker, make
15 written recommendations to the court, or attend the hearing and
16 participate in those portions of the hearing that concern the child's
17 education.

18 (7) Nothing in this section in any way removes the obligation
19 to appoint surrogate parents for students with disabilities who are
20 without parental representation in special education procedures as
21 required by state and federal law, including Section 1415(b)(2) of
22 Title 20 of the United States Code, Section 56050 of the Education
23 Code, Section 7579.5 of the Government Code, and Rule 5.650
24 of the California Rules of Court.

25 (b) (1) Subdivision (a) does not limit the ability of a parent to
26 voluntarily relinquish his or her child to the State Department of
27 Social Services, to a county adoption agency, or to a licensed
28 private adoption agency at any time while the child is the subject
29 of a petition to declare him or her, or is, a dependent child of the
30 juvenile court, if the department, county adoption agency, or
31 licensed private adoption agency is willing to accept the
32 relinquishment.

33 (2) When accepting the relinquishment of a child described in
34 paragraph (1), the department or a county adoption agency shall
35 comply with Section 8700 of the Family Code and, within five
36 court days of accepting the relinquishment, shall file written notice
37 of that fact with the court and all parties to the case and their
38 counsel.

39 (3) When accepting the relinquishment of a child described in
40 paragraph (1), a licensed private adoption agency shall comply

1 with Section 8700 of the Family Code and, within 10 court days
2 of accepting the relinquishment, shall file or allow another party
3 or that party's counsel to file with the court one original and five
4 copies of a request to approve the relinquishment. The clerk of the
5 court shall file the request under seal, subject to examination only
6 by the parties and their counsel or by others upon court approval.
7 If the request is accompanied by the written agreement of all
8 parties, the court may issue an ex parte order approving the
9 relinquishment. Unless approved pursuant to that agreement, the
10 court shall set the matter for hearing no later than 10 court days
11 after filing, and shall provide notice of the hearing to all parties
12 and their counsel, and to the licensed private adoption agency and
13 its counsel. The licensed private adoption agency and any
14 prospective adoptive parent or parents named in the relinquishment
15 shall be permitted to attend the hearing and participate as parties
16 regarding the strictly limited issue of whether the court should
17 approve the relinquishment. The court shall issue an order
18 approving or denying the relinquishment within 10 court days after
19 the hearing.

20 (c) A dependent child shall not be taken from the physical
21 custody of his or her parents or guardian or guardians with whom
22 the child resides at the time the petition was initiated, unless the
23 juvenile court finds clear and convincing evidence of any of the
24 following circumstances listed in paragraphs (1) to (5), inclusive,
25 and, in an Indian child custody proceeding, paragraph (6):

26 (1) There is or would be a substantial danger to the physical
27 health, safety, protection, or physical or emotional well-being of
28 the minor if the minor were returned home, and there are no
29 reasonable means by which the minor's physical health can be
30 protected without removing the minor from the minor's parent's
31 or guardian's physical custody. The fact that a minor has been
32 adjudicated a dependent child of the court pursuant to subdivision
33 (e) of Section 300 shall constitute prima facie evidence that the
34 minor cannot be safely left in the physical custody of the parent
35 or guardian with whom the minor resided at the time of injury.
36 The court shall consider, as a reasonable means to protect the
37 minor, each of the following:

38 (A) The option of removing an offending parent or guardian
39 from the home.

1 (B) Allowing a nonoffending parent or guardian to retain
2 physical custody as long as that parent or guardian presents a plan
3 acceptable to the court demonstrating that he or she will be able
4 to protect the child from future harm.

5 (2) The parent or guardian of the minor is unwilling to have
6 physical custody of the minor, and the parent or guardian has been
7 notified that if the minor remains out of their physical custody for
8 the period specified in Section 366.26, the minor may be declared
9 permanently free from their custody and control.

10 (3) The minor is suffering severe emotional damage, as indicated
11 by extreme anxiety, depression, withdrawal, or untoward aggressive
12 behavior toward himself or herself or others, and there are no
13 reasonable means by which the minor's emotional health may be
14 protected without removing the minor from the physical custody
15 of his or her parent or guardian.

16 (4) The minor or a sibling of the minor has been sexually abused,
17 or is deemed to be at substantial risk of being sexually abused, by
18 a parent, guardian, or member of his or her household, or other
19 person known to his or her parent, and there are no reasonable
20 means by which the minor can be protected from further sexual
21 abuse or a substantial risk of sexual abuse without removing the
22 minor from his or her parent or guardian, or the minor does not
23 wish to return to his or her parent or guardian.

24 (5) The minor has been left without any provision for his or her
25 support, or a parent who has been incarcerated or institutionalized
26 cannot arrange for the care of the minor, or a relative or other adult
27 custodian with whom the child has been left by the parent is
28 unwilling or unable to provide care or support for the child and
29 the whereabouts of the parent is unknown and reasonable efforts
30 to locate him or her have been unsuccessful.

31 (6) In an Indian child custody proceeding, continued custody
32 of the child by the parent or Indian custodian is likely to result in
33 serious emotional or physical damage to the child, and that finding
34 is supported by testimony of a "qualified expert witness" as
35 described in Section 224.6.

36 (A) Stipulation by the parent, Indian custodian, or the Indian
37 child's tribe, or failure to object, may waive the requirement of
38 producing evidence of the likelihood of serious damage only if the
39 court is satisfied that the party has been fully advised of the
40 requirements of the federal Indian Child Welfare Act (25 U.S.C.

1 Sec. 1901 et seq.), and has knowingly, intelligently, and voluntarily
2 waived them.

3 (B) Failure to meet non-Indian family and child-rearing
4 community standards, or the existence of other behavior or
5 conditions that meet the removal standards of this section, will not
6 support an order for placement in the absence of the finding in this
7 paragraph.

8 (d) The court shall make a determination as to whether
9 reasonable efforts were made to prevent or to eliminate the need
10 for removal of the minor from his or her home or, if the minor is
11 removed for one of the reasons stated in paragraph (5) of
12 subdivision (c), whether it was reasonable under the circumstances
13 not to make any of those efforts, or, in the case of an Indian child
14 custody proceeding, whether active efforts as required in Section
15 361.7 were made and that these efforts have proved unsuccessful.
16 The court shall state the facts on which the decision to remove the
17 minor is based.

18 (e) The court shall make all of the findings required by
19 subdivision (a) of Section 366 in either of the following
20 circumstances:

21 (1) The minor has been taken from the custody of his or her
22 parent or guardian and has been living in an out-of-home placement
23 pursuant to Section 319.

24 (2) The minor has been living in a voluntary out-of-home
25 placement pursuant to Section 16507.4.

26 SEC. 5. Section 361.5 of the Welfare and Institutions Code is
27 amended to read:

28 361.5. (a) Except as provided in subdivision (b), or when the
29 parent has voluntarily relinquished the child and the relinquishment
30 has been filed with the State Department of Social Services, or
31 upon the establishment of an order of guardianship pursuant to
32 Section 360, or when a court adjudicates a petition under Section
33 329 to modify the court’s jurisdiction from delinquency jurisdiction
34 to dependency jurisdiction pursuant to subparagraph (A) of
35 paragraph (2) of subdivision (b) of Section 607.2 and the parents
36 or guardian of the ward have had reunification services terminated
37 under the delinquency jurisdiction, whenever a child is removed
38 from a parent’s or guardian’s custody, the juvenile court shall order
39 the social worker to provide child welfare services to the child and
40 the child’s mother and statutorily presumed father or guardians.

1 Upon a finding and declaration of paternity by the juvenile court
2 or proof of a prior declaration of paternity by any court of
3 competent jurisdiction, the juvenile court may order services for
4 the child and the biological father, if the court determines that the
5 services will benefit the child.

6 (1) Family reunification services, when provided, shall be
7 provided as follows:

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

15 (B) For a child who, on the date of initial removal from the
16 physical custody of his or her parent or guardian, was under three
17 years of age, court-ordered services shall be provided for a period
18 of 6 months from the dispositional hearing as provided in
19 subdivision (e) of Section 366.21, but no longer than 12 months
20 from the date the child entered foster care, as provided in Section
21 361.49, unless the child is returned to the home of the parent or
22 guardian.

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

33 (2) Any motion to terminate court-ordered reunification services
34 prior to the hearing set pursuant to subdivision (f) of Section 366.21
35 for a child described by subparagraph (A) of paragraph (1), or
36 prior to the hearing set pursuant to subdivision (e) of Section
37 366.21 for a child described by subparagraph (B) or (C) of
38 paragraph (1), shall be made pursuant to the requirements set forth
39 in subdivision (c) of Section 388. A motion to terminate
40 court-ordered reunification services shall not be required at the

1 hearing set pursuant to subdivision (e) of Section 366.21 if the
2 court finds by clear and convincing evidence one of the following:

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

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

6 (C) That the parent has been convicted of a felony indicating
7 parental unfitness.

8 (3) (A) Notwithstanding subparagraphs (A), (B), and (C) of
9 paragraph (1), court-ordered services may be extended up to a
10 maximum time period not to exceed 18 months after the date the
11 child was originally removed from physical custody of his or her
12 parent or guardian if it can be shown, at the hearing held pursuant
13 to subdivision (f) of Section 366.21, that the permanent plan for
14 the child is that he or she will be returned and safely maintained
15 in the home within the extended time period. The court shall extend
16 the time period only if it finds that there is a substantial probability
17 that the child will be returned to the physical custody of his or her
18 parent or guardian within the extended time period or that
19 reasonable services have not been provided to the parent or
20 guardian. In determining whether court-ordered services may be
21 extended, the court shall consider the special circumstances of an
22 incarcerated or institutionalized parent or parents, parent or parents
23 court-ordered to a residential substance abuse treatment program,
24 or a parent who has been arrested and issued an immigration hold,
25 detained by the United States Department of Homeland Security,
26 or deported to his or her country of origin, including, but not
27 limited to, barriers to the parent's or guardian's access to services
28 and ability to maintain contact with his or her child. The court
29 shall also consider, among other factors, good faith efforts that the
30 parent or guardian has made to maintain contact with the child. If
31 the court extends the time period, the court shall specify the factual
32 basis for its conclusion that there is a substantial probability that
33 the child will be returned to the physical custody of his or her
34 parent or guardian within the extended time period. The court also
35 shall make findings pursuant to subdivision (a) of Section 366 and
36 subdivision (e) of Section 358.1.

37 (B) When counseling or other treatment services are ordered,
38 the parent or guardian shall be ordered to participate in those
39 services, unless the parent's or guardian's participation is deemed
40 by the court to be inappropriate or potentially detrimental to the

1 child, or unless a parent or guardian is incarcerated or detained by
2 the United States Department of Homeland Security and the
3 corrections facility in which he or she is incarcerated does not
4 provide access to the treatment services ordered by the court, or
5 has been deported to his or her country of origin and services
6 ordered by the court are not accessible in that country. Physical
7 custody of the child by the parents or guardians during the
8 applicable time period under subparagraph (A), (B), or (C) of
9 paragraph (1) shall not serve to interrupt the running of the time
10 period. If at the end of the applicable time period, a child cannot
11 be safely returned to the care and custody of a parent or guardian
12 without court supervision, but the child clearly desires contact with
13 the parent or guardian, the court shall take the child's desire into
14 account in devising a permanency plan.

15 (C) In cases where the child was under three years of age on
16 the date of the initial removal from the physical custody of his or
17 her parent or guardian or is a member of a sibling group as
18 described in subparagraph (C) of paragraph (1), the court shall
19 inform the parent or guardian that the failure of the parent or
20 guardian to participate regularly in any court-ordered treatment
21 programs or to cooperate or avail himself or herself of services
22 provided as part of the child welfare services case plan may result
23 in a termination of efforts to reunify the family after six months.
24 The court shall inform the parent or guardian of the factors used
25 in subdivision (e) of Section 366.21 to determine whether to limit
26 services to six months for some or all members of a sibling group
27 as described in subparagraph (C) of paragraph (1).

28 (4) (A) Notwithstanding paragraph (3), court-ordered services
29 may be extended up to a maximum time period not to exceed 24
30 months after the date the child was originally removed from
31 physical custody of his or her parent or guardian if it is shown, at
32 the hearing held pursuant to subdivision (b) of Section 366.22,
33 that the permanent plan for the child is that he or she will be
34 returned and safely maintained in the home within the extended
35 time period. The court shall extend the time period only if it finds
36 that it is in the child's best interest to have the time period extended
37 and that there is a substantial probability that the child will be
38 returned to the physical custody of his or her parent or guardian
39 who is described in subdivision (b) of Section 366.22 within the
40 extended time period, or that reasonable services have not been

1 provided to the parent or guardian. If the court extends the time
2 period, the court shall specify the factual basis for its conclusion
3 that there is a substantial probability that the child will be returned
4 to the physical custody of his or her parent or guardian within the
5 extended time period. The court also shall make findings pursuant
6 to subdivision (a) of Section 366 and subdivision (e) of Section
7 358.1.

8 (B) When counseling or other treatment services are ordered,
9 the parent or guardian shall be ordered to participate in those
10 services, in order for substantial probability to be found. Physical
11 custody of the child by the parents or guardians during the
12 applicable time period under subparagraph (A), (B), or (C) of
13 paragraph (1) shall not serve to interrupt the running of the time
14 period. If at the end of the applicable time period, the child cannot
15 be safely returned to the care and custody of a parent or guardian
16 without court supervision, but the child clearly desires contact with
17 the parent or guardian, the court shall take the child's desire into
18 account in devising a permanency plan.

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

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

26 (1) That the whereabouts of the parent or guardian are unknown.
27 A finding pursuant to this paragraph shall be supported by an
28 affidavit or by proof that a reasonably diligent search has failed
29 to locate the parent or guardian. The posting or publication of
30 notices is not required in that search.

31 (2) That the parent or guardian is suffering from a mental
32 disability that is described in Chapter 2 (commencing with Section
33 7820) of Part 4 of Division 12 of the Family Code and that renders
34 him or her incapable of utilizing those services.

35 (3) That the child or a sibling of the child has been previously
36 adjudicated a dependent pursuant to any subdivision of Section
37 300 as a result of physical or sexual abuse, that following that
38 adjudication the child had been removed from the custody of his
39 or her parent or guardian pursuant to Section 361, that the child
40 has been returned to the custody of the parent or guardian from

1 whom the child had been taken originally, and that the child is
2 being removed pursuant to Section 361, due to additional physical
3 or sexual abuse.

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

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

9 (6) (A) That the child has been adjudicated a dependent
10 pursuant to any subdivision of Section 300 as a result of severe
11 sexual abuse or the infliction of severe physical harm to the child,
12 a sibling, or a half sibling by a parent or guardian, as defined in
13 this subdivision, and the court makes a factual finding that it would
14 not benefit the child to pursue reunification services with the
15 offending parent or guardian.

16 (B) A finding of severe sexual abuse, for the purposes of this
17 subdivision, may be based on, but is not limited to, sexual
18 intercourse, or stimulation involving genital-genital, oral-genital,
19 anal-genital, or oral-anal contact, whether between the parent or
20 guardian and the child or a sibling or half sibling of the child, or
21 between the child or a sibling or half sibling of the child and
22 another person or animal with the actual or implied consent of the
23 parent or guardian; or the penetration or manipulation of the
24 child's, sibling's, or half sibling's genital organs or rectum by any
25 animate or inanimate object for the sexual gratification of the
26 parent or guardian, or for the sexual gratification of another person
27 with the actual or implied consent of the parent or guardian.

28 (C) A finding of the infliction of severe physical harm, for the
29 purposes of this subdivision, may be based on, but is not limited
30 to, deliberate and serious injury inflicted to or on a child's body
31 or the body of a sibling or half sibling of the child by an act or
32 omission of the parent or guardian, or of another individual or
33 animal with the consent of the parent or guardian; deliberate and
34 torturous confinement of the child, sibling, or half sibling in a
35 closed space; or any other torturous act or omission that would be
36 reasonably understood to cause serious emotional damage.

37 (7) That the parent is not receiving reunification services for a
38 sibling or a half sibling of the child pursuant to paragraph (3), (5),
39 or (6).

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

6 (9) That the child has been found to be a child described in
7 subdivision (g) of Section 300; that the parent or guardian of the
8 child willfully abandoned the child, and the court finds that the
9 abandonment itself constituted a serious danger to the child; or
10 that the parent or other person having custody of the child
11 voluntarily surrendered physical custody of the child pursuant to
12 Section 1255.7 of the Health and Safety Code. For the purposes
13 of this paragraph, “serious danger” means that without the
14 intervention of another person or agency, the child would have
15 sustained severe or permanent disability, injury, illness, or death.
16 For purposes of this paragraph, “willful abandonment” shall not
17 be construed as actions taken in good faith by the parent without
18 the intent of placing the child in serious danger.

19 (10) That the court ordered termination of reunification services
20 for any siblings or half siblings of the child because the parent or
21 guardian failed to reunify with the sibling or half sibling after the
22 sibling or half sibling had been removed from that parent or
23 guardian pursuant to Section 361 and that parent or guardian is
24 the same parent or guardian described in subdivision (a) and that,
25 according to the findings of the court, this parent or guardian has
26 not subsequently made a reasonable effort to treat the problems
27 that led to removal of the sibling or half sibling of that child from
28 that parent or guardian.

29 (11) That the parental rights of a parent over any sibling or half
30 sibling of the child had been permanently severed, and this parent
31 is the same parent described in subdivision (a), and that, according
32 to the findings of the court, this parent has not subsequently made
33 a reasonable effort to treat the problems that led to removal of the
34 sibling or half sibling of that child from the parent.

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

38 (13) That the parent or guardian of the child has a history of
39 extensive, abusive, and chronic use of drugs or alcohol and has
40 resisted prior court-ordered treatment for this problem during a

1 three-year period immediately prior to the filing of the petition
2 that brought that child to the court's attention, or has failed or
3 refused to comply with a program of drug or alcohol treatment
4 described in the case plan required by Section 358.1 on at least
5 two prior occasions, even though the programs identified were
6 available and accessible.

7 (14) (A) That the parent or guardian of the child has advised
8 the court that he or she is not interested in receiving family
9 maintenance or family reunification services or having the child
10 returned to or placed in his or her custody and does not wish to
11 receive family maintenance or reunification services.

12 (B) The parent or guardian shall be represented by counsel and
13 shall execute a waiver of services form to be adopted by the
14 Judicial Council. The court shall advise the parent or guardian of
15 any right to services and of the possible consequences of a waiver
16 of services, including the termination of parental rights and
17 placement of the child for adoption. The court shall not accept the
18 waiver of services unless it states on the record its finding that the
19 parent or guardian has knowingly and intelligently waived the
20 right to services.

21 (15) That the parent or guardian has on one or more occasions
22 willfully abducted the child or child's sibling or half sibling from
23 his or her placement and refused to disclose the child's or child's
24 sibling's or half sibling's whereabouts, refused to return physical
25 custody of the child or child's sibling or half sibling to his or her
26 placement, or refused to return physical custody of the child or
27 child's sibling or half sibling to the social worker.

28 (16) That the parent or guardian has been required by the court
29 to be registered on a sex offender registry under the federal Adam
30 Walsh Child Protection and Safety Act of 2006 (42 U.S.C. Sec.
31 16913(a)), as required in Section 106(b)(2)(B)(xvi)(VI) of the
32 federal Child Abuse Prevention and Treatment Act (42 U.S.C.
33 Sec. 5106a(2)(B)(xvi)(VI)).

34 (17) That the parent or guardian knowingly participated in, or
35 permitted, the sexual exploitation, as described in subdivision (c)
36 or (d) of Section 11165.1 of, or subdivision (c) of Section 236.1
37 of, the Penal Code, of the child. This shall not include instances
38 in which the parent or guardian demonstrated by a preponderance
39 of the evidence that he or she was coerced into permitting, or
40 participating in, the sexual exploitation of the child.

1 (c) (1) In deciding whether to order reunification in any case
2 in which this section applies, the court shall hold a dispositional
3 hearing. The social worker shall prepare a report that discusses
4 whether reunification services shall be provided. When it is alleged,
5 pursuant to paragraph (2) of subdivision (b), that the parent is
6 incapable of utilizing services due to mental disability, the court
7 shall order reunification services unless competent evidence from
8 mental health professionals establishes that, even with the provision
9 of services, the parent is unlikely to be capable of adequately caring
10 for the child within the time limits specified in subdivision (a).

11 (2) The court shall not order reunification for a parent or
12 guardian described in paragraph (3), (4), (6), (7), (8), (9), (10),
13 (11), (12), (13), (14), (15), (16), or (17) of subdivision (b) unless
14 the court finds, by clear and convincing evidence, that reunification
15 is in the best interest of the child.

16 (3) In addition, the court shall not order reunification in any
17 situation described in paragraph (5) of subdivision (b) unless it
18 finds that, based on competent testimony, those services are likely
19 to prevent reabuse or continued neglect of the child or that failure
20 to try reunification will be detrimental to the child because the
21 child is closely and positively attached to that parent. The social
22 worker shall investigate the circumstances leading to the removal
23 of the child and advise the court whether there are circumstances
24 that indicate that reunification is likely to be successful or
25 unsuccessful and whether failure to order reunification is likely to
26 be detrimental to the child.

27 (4) The failure of the parent to respond to previous services, the
28 fact that the child was abused while the parent was under the
29 influence of drugs or alcohol, a past history of violent behavior,
30 or testimony by a competent professional that the parent's behavior
31 is unlikely to be changed by services are among the factors
32 indicating that reunification services are unlikely to be successful.
33 The fact that a parent or guardian is no longer living with an
34 individual who severely abused the child may be considered in
35 deciding that reunification services are likely to be successful,
36 provided that the court shall consider any pattern of behavior on
37 the part of the parent that has exposed the child to repeated abuse.

38 (d) If reunification services are not ordered pursuant to
39 paragraph (1) of subdivision (b) and the whereabouts of a parent
40 become known within six months of the out-of-home placement

1 of the child, the court shall order the social worker to provide
2 family reunification services in accordance with this subdivision.

3 (e) (1) If the parent or guardian is incarcerated, institutionalized,
4 or detained by the United States Department of Homeland Security,
5 or has been deported to his or her country of origin, the court shall
6 order reasonable services unless the court determines, by clear and
7 convincing evidence, those services would be detrimental to the
8 child. In determining detriment, the court shall consider the age
9 of the child, the degree of parent-child bonding, the length of the
10 sentence, the length and nature of the treatment, the nature of the
11 crime or illness, the degree of detriment to the child if services are
12 not offered and, for children 10 years of age or older, the child's
13 attitude toward the implementation of family reunification services,
14 the likelihood of the parent's discharge from incarceration,
15 institutionalization, or detention within the reunification time
16 limitations described in subdivision (a), and any other appropriate
17 factors. In determining the content of reasonable services, the court
18 shall consider the particular barriers to an incarcerated,
19 institutionalized, detained, or deported parent's access to those
20 court-mandated services and ability to maintain contact with his
21 or her child, and shall document this information in the child's
22 case plan. Reunification services are subject to the applicable time
23 limitations imposed in subdivision (a). Services may include, but
24 shall not be limited to, all of the following:

25 (A) Maintaining contact between the parent and child through
26 collect telephone calls.

27 (B) Transportation services, when appropriate.

28 (C) Visitation services, when appropriate.

29 (D) (i) Reasonable services to extended family members or
30 foster parents providing care for the child if the services are not
31 detrimental to the child.

32 (ii) An incarcerated or detained parent may be required to attend
33 counseling, parenting classes, or vocational training programs as
34 part of the reunification service plan if actual access to these
35 services is provided. The social worker shall document in the
36 child's case plan the particular barriers to an incarcerated,
37 institutionalized, or detained parent's access to those
38 court-mandated services and ability to maintain contact with his
39 or her child.

1 (E) Reasonable efforts to assist parents who have been deported
2 to contact child welfare authorities in their country of origin, to
3 identify any available services that would substantially comply
4 with case plan requirements, to document the parents' participation
5 in those services, and to accept reports from local child welfare
6 authorities as to the parents' living situation, progress, and
7 participation in services.

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

19 (3) Notwithstanding any other law, if the incarcerated parent is
20 a woman seeking to participate in the community treatment
21 program operated by the Department of Corrections and
22 Rehabilitation pursuant to Chapter 4.8 (commencing with Section
23 1174) of Title 7 of Part 2 of, Chapter 4 (commencing with Section
24 3410) of Title 2 of Part 3 of, the Penal Code, the court shall
25 determine whether the parent's participation in a program is in the
26 child's best interest and whether it is suitable to meet the needs of
27 the parent and child.

28 (f) If the court, pursuant to paragraph (2), (3), (4), (5), (6), (7),
29 (8), (9), (10), (11), (12), (13), (14), (15), (16), or (17) of subdivision
30 (b) or paragraph (1) of subdivision (e), does not order reunification
31 services, it shall, at the dispositional hearing, that shall include a
32 permanency hearing, determine if a hearing under Section 366.26
33 shall be set in order to determine whether adoption, guardianship,
34 placement with a fit and willing relative, or another planned
35 permanent living arrangement, or, in the case of an Indian child,
36 in consultation with the child's tribe, tribal customary adoption,
37 is the most appropriate plan for the child, and shall consider in-state
38 and out-of-state placement options. If the court so determines, it
39 shall conduct the hearing pursuant to Section 366.26 within 120
40 days after the dispositional hearing. However, the court shall not

1 schedule a hearing so long as the other parent is being provided
2 reunification services pursuant to subdivision (a). The court may
3 continue to permit the parent to visit the child unless it finds that
4 visitation would be detrimental to the child.

5 (g) (1) Whenever a court orders that a hearing shall be held
6 pursuant to Section 366.26, including, when, in consultation with
7 the child’s tribe, tribal customary adoption is recommended, it
8 shall direct the agency supervising the child and the county
9 adoption agency, or the State Department of Social Services when
10 it is acting as an adoption agency, to prepare an assessment that
11 shall include:

12 (A) Current search efforts for an absent parent or parents and
13 notification of a noncustodial parent in the manner provided for
14 in Section 291.

15 (B) A review of the amount of and nature of any contact between
16 the child and his or her parents and other members of his or her
17 extended family since the time of placement. Although the
18 extended family of each child shall be reviewed on a case-by-case
19 basis, “extended family” for the purpose of this subparagraph shall
20 include, but not be limited to, the child’s siblings, grandparents,
21 aunts, and uncles.

22 (C) (i) An evaluation of the child’s medical, developmental,
23 scholastic, mental, and emotional status.

24 (ii) The evaluation pursuant to clause (i) shall include, but is
25 not limited to, ~~providing~~ a copy of the complete health and
26 education summary as required under Section 16010, including
27 the name and contact information of the person or persons currently
28 holding the right to make educational decisions for the child.

29 (iii) *In instances where it is determined that disclosure pursuant*
30 *to clause (ii) of the contact information of the person or persons*
31 *currently holding the right to make educational decisions for the*
32 *child poses a threat to the health and safety of that individual or*
33 *those individuals, that contact information shall be redacted or*
34 *withheld from the evaluation.*

35 (D) A preliminary assessment of the eligibility and commitment
36 of any identified prospective adoptive parent or guardian, including
37 a prospective tribal customary adoptive parent, particularly the
38 caretaker, to include a social history, including screening for
39 criminal records and prior referrals for child abuse or neglect, the
40 capability to meet the child’s needs, and the understanding of the

1 legal and financial rights and responsibilities of adoption and
2 guardianship. If a proposed guardian is a relative of the minor, the
3 assessment shall also consider, but need not be limited to, all of
4 the factors specified in subdivision (a) of Section 361.3 and in
5 Section 361.4. As used in this subparagraph, “relative” means an
6 adult who is related to the minor by blood, adoption, or affinity
7 within the fifth degree of kinship, including stepparents,
8 stepsiblings, and all relatives whose status is preceded by the words
9 “great,” “great-great,” or “grand,” or the spouse of any of those
10 persons even if the marriage was terminated by death or
11 dissolution. If the proposed permanent plan is guardianship with
12 an approved relative caregiver for a minor eligible for aid under
13 the Kin-GAP Program, as provided for in Article 4.7 (commencing
14 with Section 11385) of Chapter 2 of Part 3 of Division 9, “relative”
15 as used in this section has the same meaning as “relative” as
16 defined in subdivision (c) of Section 11391.

17 (E) The relationship of the child to any identified prospective
18 adoptive parent or guardian, including a prospective tribal
19 customary parent, the duration and character of the relationship,
20 the degree of attachment of the child to the prospective relative
21 guardian or adoptive parent, the relative’s or adoptive parent’s
22 strong commitment to caring permanently for the child, the
23 motivation for seeking adoption or guardianship, a statement from
24 the child concerning placement and the adoption or guardianship,
25 and whether the child over 12 years of age has been consulted
26 about the proposed relative guardianship arrangements, unless the
27 child’s age or physical, emotional, or other condition precludes
28 his or her meaningful response, and if so, a description of the
29 condition.

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

32 (G) In the case of an Indian child, in addition to subparagraphs
33 (A) to (F), inclusive, an assessment of the likelihood that the child
34 will be adopted, when, in consultation with the child’s tribe, a
35 tribal customary adoption, as defined in Section 366.24, is
36 recommended. If tribal customary adoption is recommended, the
37 assessment shall include an analysis of both of the following:

38 (i) Whether tribal customary adoption would or would not be
39 detrimental to the Indian child and the reasons for reaching that
40 conclusion.

1 (ii) Whether the Indian child cannot or should not be returned
2 to the home of the Indian parent or Indian custodian and the reasons
3 for reaching that conclusion.

4 (2) (A) A relative caregiver's preference for legal guardianship
5 over adoption, if it is due to circumstances that do not include an
6 unwillingness to accept legal or financial responsibility for the
7 child, shall not constitute the sole basis for recommending removal
8 of the child from the relative caregiver for purposes of adoptive
9 placement.

10 (B) Regardless of his or her immigration status, a relative
11 caregiver shall be given information regarding the permanency
12 options of guardianship and adoption, including the long-term
13 benefits and consequences of each option, prior to establishing
14 legal guardianship or pursuing adoption. If the proposed permanent
15 plan is guardianship with an approved relative caregiver for a
16 minor eligible for aid under the Kin-GAP Program, as provided
17 for in Article 4.7 (commencing with Section 11385) of Chapter 2
18 of Part 3 of Division 9, the relative caregiver shall be informed
19 about the terms and conditions of the negotiated agreement
20 pursuant to Section 11387 and shall agree to its execution prior to
21 the hearing held pursuant to Section 366.26. A copy of the executed
22 negotiated agreement shall be attached to the assessment.

23 (h) If, at any hearing held pursuant to Section 366.26, a
24 guardianship is established for the minor with an approved relative
25 caregiver and juvenile court dependency is subsequently dismissed,
26 the minor shall be eligible for aid under the Kin-GAP Program as
27 provided for in Article 4.5 (commencing with Section 11360) or
28 Article 4.7 (commencing with Section 11385), as applicable, of
29 Chapter 2 of Part 3 of Division 9.

30 (i) In determining whether reunification services will benefit
31 the child pursuant to paragraph (6) or (7) of subdivision (b), the
32 court shall consider any information it deems relevant, including
33 the following factors:

34 (1) The specific act or omission comprising the severe sexual
35 abuse or the severe physical harm inflicted on the child or the
36 child's sibling or half sibling.

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

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

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

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

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

8 (j) When the court determines that reunification services will
9 not be ordered, it shall order that the child’s caregiver receive the
10 child’s birth certificate in accordance with Sections 16010.4 and
11 16010.5. Additionally, when the court determines that reunification
12 services will not be ordered, it shall order, when appropriate, that
13 a child who is 16 years of age or older receive his or her birth
14 certificate.

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

21 SEC. 6. Section 366.1 of the Welfare and Institutions Code is
22 amended to read:

23 366.1. Each supplemental report required to be filed pursuant
24 to Section 366 shall include, but not be limited to, a factual
25 discussion of each of the following subjects:

26 (a) Whether the county welfare department social worker has
27 considered either of the following:

28 (1) Child protective services, as defined in Chapter 5
29 (commencing with Section 16500) of Part 4 of Division 9, as a
30 possible solution to the problems at hand, and has offered those
31 services to qualified parents, if appropriate under the circumstances.

32 (2) Whether the child can be returned to the custody of his or
33 her parent who is enrolled in a certified substance abuse treatment
34 facility that allows a dependent child to reside with his or her
35 parent.

36 (b) What plan, if any, for the return and maintenance of the
37 child in a safe home is recommended to the court by the county
38 welfare department social worker.

1 (c) Whether the subject child appears to be a person who is
2 eligible to be considered for further court action to free the child
3 from parental custody and control.

4 (d) What actions, if any, have been taken by the parent to correct
5 the problems that caused the child to be made a dependent child
6 of the court.

7 (e) If the parent or guardian is unwilling or unable to participate
8 in making an educational decision for his or her child, or if other
9 circumstances exist that compromise the ability of the parent or
10 guardian to make educational decisions for the child, the county
11 welfare department or social worker shall consider whether the
12 right of the parent or guardian to make educational decisions for
13 the child should be limited. If the supplemental report makes that
14 recommendation, the report shall identify whether there is a
15 responsible adult available to make educational decisions for the
16 child pursuant to Section 361.

17 (f) (1) The health and education of the minor, including a copy
18 of the complete health and education summary as required under
19 Section 16010, including the name and contact information of the
20 person or persons currently holding the right to make educational
21 decisions for the child.

22 (2) *In instances where it is determined that disclosure pursuant*
23 *to paragraph (1) of the contact information of the person or*
24 *persons currently holding the right to make educational decisions*
25 *for the child poses a threat to the health and safety of that*
26 *individual or those individuals, that contact information shall be*
27 *redacted or withheld from the health and education summary*
28 *within the supplemental report described in this section.*

29 (g) (1) Whether the child has any siblings under the court's
30 jurisdiction, and, if any siblings exist, all of the following:

31 (A) The nature of the relationship between the child and his or
32 her siblings.

33 (B) The appropriateness of developing or maintaining the sibling
34 relationships pursuant to Section 16002.

35 (C) If the siblings are not placed together in the same home,
36 why the siblings are not placed together and what efforts are being
37 made to place the siblings together, or why those efforts are not
38 appropriate.

39 (D) If the siblings are not placed together, all of the following:

40 (i) The frequency and nature of the visits between the siblings.

1 (ii) If there are visits between the siblings, whether the visits
2 are supervised or unsupervised. If the visits are supervised, a
3 discussion of the reasons why the visits are supervised, and what
4 needs to be accomplished in order for the visits to be unsupervised.

5 (iii) If there are visits between the siblings, a description of the
6 location and length of the visits.

7 (iv) Any plan to increase visitation between the siblings.

8 (E) The impact of the sibling relationships on the child's
9 placement and planning for legal permanence.

10 (2) The factual discussion shall include a discussion of indicators
11 of the nature of the child's sibling relationships, including, but not
12 limited to, whether the siblings were raised together in the same
13 home, whether the siblings have shared significant common
14 experiences or have existing close and strong bonds, whether either
15 sibling expresses a desire to visit or live with his or her sibling, as
16 applicable, and whether ongoing contact is in the child's best
17 emotional interests.

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

29 (i) The implementation and operation of the amendments to
30 subdivision (h) 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. 7. Section 366.21 of the Welfare and Institutions Code
34 is amended to read:

35 366.21. (a) Every hearing conducted by the juvenile court
36 reviewing the status of a dependent child shall be placed on the
37 appearance calendar. The court shall advise all persons present at
38 the hearing of the date of the future hearing and of their right to
39 be present and represented by counsel.

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

3 (c) At least 10 calendar days prior to the hearing, the social
4 worker shall file a supplemental report with the court regarding
5 the services provided or offered to the parent or legal guardian to
6 enable him or her to assume custody and the efforts made to
7 achieve legal permanence for the child if efforts to reunify fail,
8 including, but not limited to, efforts to maintain relationships
9 between a child who is 10 years of age or older and has been in
10 out-of-home placement for six months or longer and individuals
11 who are important to the child, consistent with the child's best
12 interests; the progress made; and, where relevant, the prognosis
13 for return of the child to the physical custody of his or her parent
14 or legal guardian; and shall make his or her recommendation for
15 disposition. If the child is a member of a sibling group described
16 in subparagraph (C) of paragraph (1) of subdivision (a) of Section
17 361.5, the report and recommendation may also take into account
18 those factors described in subdivision (e) relating to the child's
19 sibling group. If the recommendation is not to return the child to
20 a parent or legal guardian, the report shall specify why the return
21 of the child would be detrimental to the child. The social worker
22 shall provide the parent or legal guardian, counsel for the child,
23 and any court-appointed child advocate with a copy of the report,
24 including his or her recommendation for disposition, at least 10
25 calendar days prior to the hearing. In the case of a child removed
26 from the physical custody of his or her parent or legal guardian,
27 the social worker shall, at least 10 calendar days prior to the
28 hearing, provide a summary of his or her recommendation for
29 disposition to any foster parents, relative caregivers, and certified
30 foster parents who have been approved for adoption by the State
31 Department of Social Services when it is acting as an adoption
32 agency or by a county adoption agency, community care facility,
33 or foster family agency having the physical custody of the child.
34 The social worker shall include a copy of the Judicial Council
35 Caregiver Information Form (JV-290) with the summary of
36 recommendations to the child's foster parents, relative caregivers,
37 or foster parents approved for adoption, in the caregiver's primary
38 language when available, along with information on how to file
39 the form with the court.

1 (d) Prior to any hearing involving a child in the physical custody
2 of a community care facility or a foster family agency that may
3 result in the return of the child to the physical custody of his or
4 her parent or legal guardian, or in adoption or the creation of a
5 legal guardianship, or in the case of an Indian child, in consultation
6 with the child's tribe, tribal customary adoption, the facility or
7 agency shall file with the court a report, or a Judicial Council
8 Caregiver Information Form (JV-290), containing its
9 recommendation for disposition. Prior to the hearing involving a
10 child in the physical custody of a foster parent, a relative caregiver,
11 or a certified foster parent who has been approved for adoption by
12 the State Department of Social Services when it is acting as an
13 adoption agency or by a county adoption agency, the foster parent,
14 relative caregiver, or the certified foster parent who has been
15 approved for adoption by the State Department of Social Services
16 when it is acting as an adoption agency or by a county adoption
17 agency, may file with the court a report containing his or her
18 recommendation for disposition. The court shall consider the report
19 and recommendation filed pursuant to this subdivision prior to
20 determining any disposition.

21 (e) (1) At the review hearing held 6 months after the initial
22 dispositional hearing, but no later than 12 months after the date
23 the child entered foster care as determined in Section 361.49,
24 whichever occurs earlier, after considering the admissible and
25 relevant evidence, the court shall order the return of the child to
26 the physical custody of his or her parent or legal guardian unless
27 the court finds, by a preponderance of the evidence, that the return
28 of the child to his or her parent or legal guardian would create a
29 substantial risk of detriment to the safety, protection, or physical
30 or emotional well-being of the child. The social worker shall have
31 the burden of establishing that detriment. At the hearing, the court
32 shall consider the criminal history, obtained pursuant to paragraph
33 (1) of subdivision (f) of Section 16504.5, of the parent or legal
34 guardian subsequent to the child's removal to the extent that the
35 criminal record is substantially related to the welfare of the child
36 or the parent's or guardian's ability to exercise custody and control
37 regarding his or her child, provided the parent or legal guardian
38 agreed to submit fingerprint images to obtain criminal history
39 information as part of the case plan. The court shall also consider
40 whether the child can be returned to the custody of his or her parent

1 who is enrolled in a certified substance abuse treatment facility
2 that allows a dependent child to reside with his or her parent. The
3 fact that the parent is enrolled in a certified substance abuse
4 treatment facility shall not be, for that reason alone, prima facie
5 evidence of detriment. The failure of the parent or legal guardian
6 to participate regularly and make substantive progress in
7 court-ordered treatment programs shall be prima facie evidence
8 that return would be detrimental. In making its determination, the
9 court shall review and consider the social worker's report and
10 recommendations and the report and recommendations of any child
11 advocate appointed pursuant to Section 356.5; and shall consider
12 the efforts or progress, or both, demonstrated by the parent or legal
13 guardian and the extent to which he or she availed himself or
14 herself of services provided, taking into account the particular
15 barriers to a minor parent or a nonminor dependent parent, or an
16 incarcerated, institutionalized, detained, or deported parent's or
17 legal guardian's access to those court-mandated services and ability
18 to maintain contact with his or her child.

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

32 (3) If the child was under three years of age on the date of the
33 initial removal, or is a member of a sibling group described in
34 subparagraph (C) of paragraph (1) of subdivision (a) of Section
35 361.5, and the court finds by clear and convincing evidence that
36 the parent failed to participate regularly and make substantive
37 progress in a court-ordered treatment plan, the court may schedule
38 a hearing pursuant to Section 366.26 within 120 days. If, however,
39 the court finds there is a substantial probability that the child, who
40 was under three years of age on the date of initial removal or is a

1 member of a sibling group described in subparagraph (C) of
2 paragraph (1) of subdivision (a) of Section 361.5, may be returned
3 to his or her parent or legal guardian within six months or that
4 reasonable services have not been provided, the court shall continue
5 the case to the 12-month permanency hearing.

6 (4) For the purpose of placing and maintaining a sibling group
7 together in a permanent home, the court, in making its
8 determination to schedule a hearing pursuant to Section 366.26
9 for some or all members of a sibling group, as described in
10 subparagraph (C) of paragraph (1) of subdivision (a) of Section
11 361.5, shall review and consider the social worker's report and
12 recommendations. Factors the report shall address, and the court
13 shall consider, may include, but need not be limited to, whether
14 the sibling group was removed from parental care as a group, the
15 closeness and strength of the sibling bond, the ages of the siblings,
16 the appropriateness of maintaining the sibling group together, the
17 detriment to the child if sibling ties are not maintained, the
18 likelihood of finding a permanent home for the sibling group,
19 whether the sibling group is currently placed together in a
20 preadoptive home or has a concurrent plan goal of legal
21 permanency in the same home, the wishes of each child whose
22 age and physical and emotional condition permits a meaningful
23 response, and the best interests of each child in the sibling group.
24 The court shall specify the factual basis for its finding that it is in
25 the best interests of each child to schedule a hearing pursuant to
26 Section 366.26 within 120 days for some or all of the members of
27 the sibling group.

28 (5) If the child was removed initially under subdivision (g) of
29 Section 300 and the court finds by clear and convincing evidence
30 that the whereabouts of the parent are still unknown, or the parent
31 has failed to contact and visit the child, the court may schedule a
32 hearing pursuant to Section 366.26 within 120 days. The court
33 shall take into account any particular barriers to a parent's ability
34 to maintain contact with his or her child due to the parent's
35 incarceration, institutionalization, detention by the United States
36 Department of Homeland Security, or deportation. If the court
37 finds by clear and convincing evidence that the parent has been
38 convicted of a felony indicating parental unfitness, the court may
39 schedule a hearing pursuant to Section 366.26 within 120 days.

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

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

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

19 (f) (1) The permanency hearing shall be held no later than 12
20 months after the date the child entered foster care, as that date is
21 determined pursuant to Section 361.49. At the permanency hearing,
22 the court shall determine the permanent plan for the child, which
23 shall include a determination of whether the child will be returned
24 to the child's home and, if so, when, within the time limits of
25 subdivision (a) of Section 361.5. After considering the relevant
26 and admissible evidence, the court shall order the return of the
27 child to the physical custody of his or her parent or legal guardian
28 unless the court finds, by a preponderance of the evidence, that
29 the return of the child to his or her parent or legal guardian would
30 create a substantial risk of detriment to the safety, protection, or
31 physical or emotional well-being of the child. The social worker
32 shall have the burden of establishing that detriment.

33 (A) At the permanency hearing, the court shall consider the
34 criminal history, obtained pursuant to paragraph (1) of subdivision
35 (f) of Section 16504.5, of the parent or legal guardian subsequent
36 to the child's removal to the extent that the criminal record is
37 substantially related to the welfare of the child or the parent's or
38 legal guardian's ability to exercise custody and control regarding
39 his or her child, provided that the parent or legal guardian agreed
40 to submit fingerprint images to obtain criminal history information

1 as part of the case plan. The court shall also determine whether
2 reasonable services that were designed to aid the parent or legal
3 guardian to overcome the problems that led to the initial removal
4 and continued custody of the child have been provided or offered
5 to the parent or legal guardian.

6 (B) The court shall also consider whether the child can be
7 returned to the custody of his or her parent who is enrolled in a
8 certified substance abuse treatment facility that allows a dependent
9 child to reside with his or her parent. The fact that the parent is
10 enrolled in a certified substance abuse treatment facility shall not
11 be, for that reason alone, prima facie evidence of detriment. The
12 failure of the parent or legal guardian to participate regularly and
13 make substantive progress in court-ordered treatment programs
14 shall be prima facie evidence that return would be detrimental.

15 (C) In making its determination, the court shall review and
16 consider the social worker's report and recommendations and the
17 report and recommendations of any child advocate appointed
18 pursuant to Section 356.5, shall consider the efforts or progress,
19 or both, demonstrated by the parent or legal guardian and the extent
20 to which he or she availed himself or herself of services provided,
21 taking into account the particular barriers to a minor parent or a
22 nonminor dependent parent, or an incarcerated, institutionalized,
23 detained, or deported parent's or legal guardian's access to those
24 court-mandated services and ability to maintain contact with his
25 or her child, and shall make appropriate findings pursuant to
26 subdivision (a) of Section 366.

27 (D) For each youth 16 years of age and older, the court shall
28 also determine whether services have been made available to assist
29 him or her in making the transition from foster care to successful
30 adulthood.

31 (2) Regardless of whether the child is returned to his or her
32 parent or legal guardian, the court shall specify the factual basis
33 for its decision. If the child is not returned to a parent or legal
34 guardian, the court shall specify the factual basis for its conclusion
35 that the return would be detrimental. The court also shall make a
36 finding pursuant to subdivision (a) of Section 366. If the child is
37 not returned to his or her parent or legal guardian, the court shall
38 consider, and state for the record, in-state and out-of-state
39 placement options. If the child is placed out of the state, the court

1 shall make a determination whether the out-of-state placement
2 continues to be appropriate and in the best interests of the child.

3 (g) If the time period in which the court-ordered services were
4 provided has met or exceeded the time period set forth in
5 subparagraph (A), (B), or (C) of paragraph (1) of subdivision (a)
6 of Section 361.5, as appropriate, and a child is not returned to the
7 custody of a parent or legal guardian at the permanency hearing
8 held pursuant to subdivision (f), the court shall do one of the
9 following:

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

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

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

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

33 (i) For purposes of this subdivision, the court's decision to
34 continue the case based on a finding or substantial probability that
35 the child will be returned to the physical custody of his or her
36 parent or legal guardian is a compelling reason for determining
37 that a hearing held pursuant to Section 366.26 is not in the best
38 interests of the child.

39 (ii) The court shall inform the parent or legal guardian that if
40 the child cannot be returned home by the next permanency review

1 hearing, a proceeding pursuant to Section 366.26 may be instituted.
2 The court shall not order that a hearing pursuant to Section 366.26
3 be held unless there is clear and convincing evidence that
4 reasonable services have been provided or offered to the parent or
5 legal guardian.

6 (2) Continue the case for up to six months for a permanency
7 review hearing, provided that the hearing shall occur within 18
8 months of the date the child was originally taken from the physical
9 custody of his or her parent or legal guardian, if the parent has
10 been arrested and issued an immigration hold, detained by the
11 United States Department of Homeland Security, or deported to
12 his or her country of origin, and the court determines either that
13 there is a substantial probability that the child will be returned to
14 the physical custody of his or her parent or legal guardian and
15 safely maintained in the home within the extended period of time
16 or that reasonable services have not been provided to the parent
17 or legal guardian.

18 (3) For purposes of paragraph (2), in order to find a substantial
19 probability that the child will be returned to the physical custody
20 of his or her parent or legal guardian and safely maintained in the
21 home within the extended period of time, the court shall find all
22 of the following:

23 (A) The parent or legal guardian has consistently and regularly
24 contacted and visited with the child, taking into account any
25 particular barriers to a parent’s ability to maintain contact with his
26 or her child due to the parent’s arrest and receipt of an immigration
27 hold, detention by the United States Department of Homeland
28 Security, or deportation.

29 (B) The parent or legal guardian has made significant progress
30 in resolving the problems that led to the child’s removal from the
31 home.

32 (C) The parent or legal guardian has demonstrated the capacity
33 or ability both to complete the objectives of his or her treatment
34 plan and to provide for the child’s safety, protection, physical and
35 emotional well-being, and special needs.

36 (4) Order that a hearing be held within 120 days, pursuant to
37 Section 366.26, but only if the court does not continue the case to
38 the permanency planning review hearing and there is clear and
39 convincing evidence that reasonable services have been provided
40 or offered to the parents or legal guardians. On and after January

1 1, 2012, a hearing pursuant to Section 366.26 shall not be ordered
2 if the child is a nonminor dependent, unless the nonminor
3 dependent is an Indian child and tribal customary adoption is
4 recommended as the permanent plan.

5 (5) Order that the child remain in foster care, but only if the
6 court finds by clear and convincing evidence, based upon the
7 evidence already presented to it, including a recommendation by
8 the State Department of Social Services when it is acting as an
9 adoption agency or by a county adoption agency, that there is a
10 compelling reason for determining that a hearing held pursuant to
11 Section 366.26 is not in the best interests of the child because the
12 child is not a proper subject for adoption and has no one willing
13 to accept legal guardianship as of the hearing date. For purposes
14 of this section, a recommendation by the State Department of
15 Social Services when it is acting as an adoption agency or by a
16 county adoption agency that adoption is not in the best interests
17 of the child shall constitute a compelling reason for the court's
18 determination. That recommendation shall be based on the present
19 circumstances of the child and shall not preclude a different
20 recommendation at a later date if the child's circumstances change.
21 On and after January 1, 2012, the nonminor dependent's legal
22 status as an adult is in and of itself a compelling reason not to hold
23 a hearing pursuant to Section 366.26. The court may order that a
24 nonminor dependent who otherwise is eligible pursuant to Section
25 11403 remain in a planned, permanent living arrangement.

26 (A) The court shall make factual findings identifying any
27 barriers to achieving the permanent plan as of the hearing date.
28 When the child is under 16 years of age, the court shall order a
29 permanent plan of return home, adoption, tribal customary adoption
30 in the case of an Indian child, legal guardianship, or placement
31 with a fit and willing relative, as appropriate. When the child is
32 16 years of age or older, or is a nonminor dependent, and no other
33 permanent plan is appropriate at the time of the hearing, the court
34 may order another planned permanent living arrangement, as
35 described in paragraph (2) of subdivision (i) of Section 16501.

36 (B) If the court orders that a child who is 10 years of age or
37 older remain in foster care, the court shall determine whether the
38 agency has made reasonable efforts to maintain the child's
39 relationships with individuals other than the child's siblings who
40 are important to the child, consistent with the child's best interests,

1 and may make any appropriate order to ensure that those
2 relationships are maintained.

3 (C) If the child is not returned to his or her parent or legal
4 guardian, the court shall consider, and state for the record, in-state
5 and out-of-state options for permanent placement. If the child is
6 placed out of the state, the court shall make a determination
7 whether the out-of-state placement continues to be appropriate and
8 in the best interests of the child.

9 (h) In any case in which the court orders that a hearing pursuant
10 to Section 366.26 shall be held, it shall also order the termination
11 of reunification services to the parent or legal guardian. The court
12 shall continue to permit the parent or legal guardian to visit the
13 child pending the hearing unless it finds that visitation would be
14 detrimental to the child. The court shall make any other appropriate
15 orders to enable the child to maintain relationships with individuals,
16 other than the child's siblings, who are important to the child,
17 consistent with the child's best interests. When the court orders a
18 termination of reunification services to the parent or legal guardian,
19 it shall also order that the child's caregiver receive the child's birth
20 certificate in accordance with Sections 16010.4 and 16010.5.
21 Additionally, when the court orders a termination of reunification
22 services to the parent or legal guardian, it shall order, when
23 appropriate, that a child who is 16 years of age or older receive
24 his or her birth certificate.

25 (i) (1) Whenever a court orders that a hearing pursuant to
26 Section 366.26, including, when, in consultation with the child's
27 tribe, tribal customary adoption is recommended, shall be held, it
28 shall direct the agency supervising the child and the county
29 adoption agency, or the State Department of Social Services when
30 it is acting as an adoption agency, to prepare an assessment that
31 shall include:

32 (A) Current search efforts for an absent parent or parents or
33 legal guardians.

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

1 (C) (i) An evaluation of the child’s medical, developmental,
2 scholastic, mental, and emotional status.

3 (ii) The evaluation pursuant to clause (i) shall include, but is
4 not limited to, ~~providing~~ a copy of the complete health and
5 education summary as required under Section 16010, including
6 the name and contact information of the person or persons currently
7 holding the right to make educational decisions for the child.

8 (iii) *In instances where it is determined that disclosure pursuant*
9 *to clause (ii) of the contact information of the person or persons*
10 *currently holding the right to make educational decisions for the*
11 *child poses a threat to the health and safety of that individual or*
12 *those individuals, that contact information shall be redacted or*
13 *withheld from the evaluation.*

14 (D) A preliminary assessment of the eligibility and commitment
15 of any identified prospective adoptive parent or legal guardian,
16 including the prospective tribal customary adoptive parent,
17 particularly the caretaker, to include a social history including
18 screening for criminal records and prior referrals for child abuse
19 or neglect, the capability to meet the child’s needs, and the
20 understanding of the legal and financial rights and responsibilities
21 of adoption and guardianship. If a proposed guardian is a relative
22 of the minor, the assessment shall also consider, but need not be
23 limited to, all of the factors specified in subdivision (a) of Section
24 361.3 and in Section 361.4.

25 (E) The relationship of the child to any identified prospective
26 adoptive parent or legal guardian, the duration and character of
27 the relationship, the degree of attachment of the child to the
28 prospective relative guardian or adoptive parent, the relative’s or
29 adoptive parent’s strong commitment to caring permanently for
30 the child, the motivation for seeking adoption or guardianship, a
31 statement from the child concerning placement and the adoption
32 or guardianship, and whether the child, if over 12 years of age,
33 has been consulted about the proposed relative guardianship
34 arrangements, unless the child’s age or physical, emotional, or
35 other condition precludes his or her meaningful response, and if
36 so, a description of the condition.

37 (F) A description of efforts to be made to identify a prospective
38 adoptive parent or legal guardian, including, but not limited to,
39 child-specific recruitment and listing on an adoption exchange
40 within the state or out of the state.

1 (G) An analysis of the likelihood that the child will be adopted
2 if parental rights are terminated.

3 (H) In the case of an Indian child, in addition to subparagraphs
4 (A) to (G), inclusive, an assessment of the likelihood that the child
5 will be adopted, when, in consultation with the child's tribe, a
6 tribal customary adoption, as defined in Section 366.24, is
7 recommended. If tribal customary adoption is recommended, the
8 assessment shall include an analysis of both of the following:

9 (i) Whether tribal customary adoption would or would not be
10 detrimental to the Indian child and the reasons for reaching that
11 conclusion.

12 (ii) Whether the Indian child cannot or should not be returned
13 to the home of the Indian parent or Indian custodian and the reasons
14 for reaching that conclusion.

15 (2) (A) A relative caregiver's preference for legal guardianship
16 over adoption, if it is due to circumstances that do not include an
17 unwillingness to accept legal or financial responsibility for the
18 child, shall not constitute the sole basis for recommending removal
19 of the child from the relative caregiver for purposes of adoptive
20 placement.

21 (B) Regardless of his or her immigration status, a relative
22 caregiver shall be given information regarding the permanency
23 options of guardianship and adoption, including the long-term
24 benefits and consequences of each option, prior to establishing
25 legal guardianship or pursuing adoption. If the proposed permanent
26 plan is guardianship with an approved relative caregiver for a
27 minor eligible for aid under the Kin-GAP Program, as provided
28 for in Article 4.7 (commencing with Section 11385) of Chapter 2
29 of Part 3 of Division 9, the relative caregiver shall be informed
30 about the terms and conditions of the negotiated agreement
31 pursuant to Section 11387 and shall agree to its execution prior to
32 the hearing held pursuant to Section 366.26. A copy of the executed
33 negotiated agreement shall be attached to the assessment.

34 (j) If, at any hearing held pursuant to Section 366.26, a
35 guardianship is established for the minor with an approved relative
36 caregiver, and juvenile court dependency is subsequently
37 dismissed, the minor shall be eligible for aid under the Kin-GAP
38 Program, as provided for in Article 4.5 (commencing with Section
39 11360) or Article 4.7 (commencing with Section 11385), as
40 applicable, of Chapter 2 of Part 3 of Division 9.

1 (k) As used in this section, “relative” means an adult who is
2 related to the minor by blood, adoption, or affinity within the fifth
3 degree of kinship, including stepparents, stepsiblings, and all
4 relatives whose status is preceded by the words “great,”
5 “great-great,” or “grand,” or the spouse of any of those persons
6 even if the marriage was terminated by death or dissolution. If the
7 proposed permanent plan is guardianship with an approved relative
8 caregiver for a minor eligible for aid under the Kin-GAP Program,
9 as provided for in Article 4.7 (commencing with Section 11385)
10 of Chapter 2 of Part 3 of Division 9, “relative” as used in this
11 section has the same meaning as “relative” as defined in
12 subdivision (c) of Section 11391.

13 (l) For purposes of this section, evidence of any of the following
14 circumstances shall not, in and of itself, be deemed a failure to
15 provide or offer reasonable services:

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

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

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

23 SEC. 8. Section 366.22 of the Welfare and Institutions Code
24 is amended to read:

25 366.22. (a) (1) When a case has been continued pursuant to
26 paragraph (1) or (2) of subdivision (g) of Section 366.21, the
27 permanency review hearing shall occur within 18 months after the
28 date the child was originally removed from the physical custody
29 of his or her parent or legal guardian. After considering the
30 admissible and relevant evidence, the court shall order the return
31 of the child to the physical custody of his or her parent or legal
32 guardian unless the court finds, by a preponderance of the evidence,
33 that the return of the child to his or her parent or legal guardian
34 would create a substantial risk of detriment to the safety, protection,
35 or physical or emotional well-being of the child. The social worker
36 shall have the burden of establishing that detriment. At the
37 permanency review hearing, the court shall consider the criminal
38 history, obtained pursuant to paragraph (1) of subdivision (f) of
39 Section 16504.5, of the parent or legal guardian subsequent to the
40 child’s removal, to the extent that the criminal record is

1 substantially related to the welfare of the child or the parent's or
2 legal guardian's ability to exercise custody and control regarding
3 his or her child, provided that the parent or legal guardian agreed
4 to submit fingerprint images to obtain criminal history information
5 as part of the case plan. The court shall also consider whether the
6 child can be returned to the custody of his or her parent who is
7 enrolled in a certified substance abuse treatment facility that allows
8 a dependent child to reside with his or her parent. The fact that the
9 parent is enrolled in a certified substance abuse treatment facility
10 shall not be, for that reason alone, prima facie evidence of
11 detriment. The failure of the parent or legal guardian to participate
12 regularly and make substantive progress in court-ordered treatment
13 programs shall be prima facie evidence that return would be
14 detrimental. In making its determination, the court shall review
15 and consider the social worker's report and recommendations and
16 the report and recommendations of any child advocate appointed
17 pursuant to Section 356.5; shall consider the efforts or progress,
18 or both, demonstrated by the parent or legal guardian and the extent
19 to which he or she availed himself or herself of services provided,
20 taking into account the particular barriers of a minor parent or a
21 nonminor dependent parent, or an incarcerated or institutionalized
22 parent's or legal guardian's access to those court-mandated services
23 and ability to maintain contact with his or her child; and shall make
24 appropriate findings pursuant to subdivision (a) of Section 366.

25 (2) Whether or not the child is returned to his or her parent or
26 legal guardian, the court shall specify the factual basis for its
27 decision. If the child is not returned to a parent or legal guardian,
28 the court shall specify the factual basis for its conclusion that return
29 would be detrimental. If the child is not returned to his or her parent
30 or legal guardian, the court shall consider, and state for the record,
31 in-state and out-of-state options for the child's permanent
32 placement. If the child is placed out of the state, the court shall
33 make a determination whether the out-of-state placement continues
34 to be appropriate and in the best interests of the child.

35 (3) Unless the conditions in subdivision (b) are met and the
36 child is not returned to a parent or legal guardian at the permanency
37 review hearing, the court shall order that a hearing be held pursuant
38 to Section 366.26 in order to determine whether adoption, or, in
39 the case of an Indian child, in consultation with the child's tribe,
40 tribal customary adoption, guardianship, or continued placement

1 in foster care is the most appropriate plan for the child. On and
2 after January 1, 2012, a hearing pursuant to Section 366.26 shall
3 not be ordered if the child is a nonminor dependent, unless the
4 nonminor dependent is an Indian child, and tribal customary
5 adoption is recommended as the permanent plan. However, if the
6 court finds by clear and convincing evidence, based on the evidence
7 already presented to it, including a recommendation by the State
8 Department of Social Services when it is acting as an adoption
9 agency or by a county adoption agency, that there is a compelling
10 reason, as described in paragraph (5) of subdivision (g) of Section
11 366.21, for determining that a hearing held under Section 366.26
12 is not in the best interests of the child because the child is not a
13 proper subject for adoption and has no one willing to accept legal
14 guardianship as of the hearing date, the court may, only under
15 these circumstances, order that the child remain in foster care with
16 a permanent plan of return home, adoption, tribal customary
17 adoption in the case of an Indian child, legal guardianship, or
18 placement with a fit and willing relative, as appropriate. If the
19 child is 16 years of age or older or is a nonminor dependent, and
20 no other permanent plan is appropriate at the time of the hearing,
21 the court may order another planned permanent living arrangement,
22 as described in paragraph (2) of subdivision (i) of Section 16501.
23 The court shall make factual findings identifying any barriers to
24 achieving the permanent plan as of the hearing date. On and after
25 January 1, 2012, the nonminor dependent's legal status as an adult
26 is in and of itself a compelling reason not to hold a hearing pursuant
27 to Section 366.26. The court may order that a nonminor dependent
28 who otherwise is eligible pursuant to Section 11403 remain in a
29 planned, permanent living arrangement. If the court orders that a
30 child who is 10 years of age or older remain in foster care, the
31 court shall determine whether the agency has made reasonable
32 efforts to maintain the child's relationships with individuals other
33 than the child's siblings who are important to the child, consistent
34 with the child's best interests, and may make any appropriate order
35 to ensure that those relationships are maintained. The hearing shall
36 be held no later than 120 days from the date of the permanency
37 review hearing. The court shall also order termination of
38 reunification services to the parent or legal guardian. The court
39 shall continue to permit the parent or legal guardian to visit the
40 child unless it finds that visitation would be detrimental to the

1 child. The court shall determine whether reasonable services have
2 been offered or provided to the parent or legal guardian. For
3 purposes of this subdivision, evidence of any of the following
4 circumstances shall not, in and of themselves, be deemed a failure
5 to provide or offer reasonable services:

6 (A) The child has been placed with a foster family that is eligible
7 to adopt a child, or has been placed in a preadoptive home.

8 (B) The case plan includes services to make and finalize a
9 permanent placement for the child if efforts to reunify fail.

10 (C) Services to make and finalize a permanent placement for
11 the child, if efforts to reunify fail, are provided concurrently with
12 services to reunify the family.

13 (b) If the child is not returned to a parent or legal guardian at
14 the permanency review hearing and the court determines by clear
15 and convincing evidence that the best interests of the child would
16 be met by the provision of additional reunification services to a
17 parent or legal guardian who is making significant and consistent
18 progress in a court-ordered residential substance abuse treatment
19 program, a parent who was either a minor parent or a nonminor
20 dependent parent at the time of the initial hearing making
21 significant and consistent progress in establishing a safe home for
22 the child's return, or a parent recently discharged from
23 incarceration, institutionalization, or the custody of the United
24 States Department of Homeland Security and making significant
25 and consistent progress in establishing a safe home for the child's
26 return, the court may continue the case for up to six months for a
27 subsequent permanency review hearing, provided that the hearing
28 shall occur within 24 months of the date the child was originally
29 taken from the physical custody of his or her parent or legal
30 guardian. The court shall continue the case only if it finds that
31 there is a substantial probability that the child will be returned to
32 the physical custody of his or her parent or legal guardian and
33 safely maintained in the home within the extended period of time
34 or that reasonable services have not been provided to the parent
35 or legal guardian. For the purposes of this section, in order to find
36 a substantial probability that the child will be returned to the
37 physical custody of his or her parent or legal guardian and safely
38 maintained in the home within the extended period of time, the
39 court shall be required to find all of the following:

1 (1) That the parent or legal guardian has consistently and
2 regularly contacted and visited with the child.

3 (2) That the parent or legal guardian has made significant and
4 consistent progress in the prior 18 months in resolving problems
5 that led to the child’s removal from the home.

6 (3) (A) The parent or legal guardian has demonstrated the
7 capacity and ability both to complete the objectives of his or her
8 substance abuse treatment plan as evidenced by reports from a
9 substance abuse provider as applicable, or complete a treatment
10 plan postdischarge from incarceration, institutionalization, or
11 detention, or following deportation to his or her country of origin
12 and his or her return to the United States, and to provide for the
13 child’s safety, protection, physical and emotional well-being, and
14 special needs.

15 (B) For purposes of this subdivision, the court’s decision to
16 continue the case based on a finding or substantial probability that
17 the child will be returned to the physical custody of his or her
18 parent or legal guardian is a compelling reason for determining
19 that a hearing held pursuant to Section 366.26 is not in the best
20 interests of the child.

21 (C) The court shall inform the parent or legal guardian that if
22 the child cannot be returned home by the subsequent permanency
23 review hearing, a proceeding pursuant to Section 366.26 may be
24 instituted. The court shall not order that a hearing pursuant to
25 Section 366.26 be held unless there is clear and convincing
26 evidence that reasonable services have been provided or offered
27 to the parent or legal guardian.

28 (c) (1) Whenever a court orders that a hearing pursuant to
29 Section 366.26, including when a tribal customary adoption is
30 recommended, shall be held, it shall direct the agency supervising
31 the child and the county adoption agency, or the State Department
32 of Social Services when it is acting as an adoption agency, to
33 prepare an assessment that shall include:

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

35 (B) A review of the amount of and nature of any contact between
36 the child and his or her parents and other members of his or her
37 extended family since the time of placement. Although the
38 extended family of each child shall be reviewed on a case-by-case
39 basis, “extended family” for the purposes of this subparagraph

1 shall include, but not be limited to, the child's siblings,
2 grandparents, aunts, and uncles.

3 (C) (i) An evaluation of the child's medical, developmental,
4 scholastic, mental, and emotional status.

5 (ii) The evaluation pursuant to clause (i) shall include, but is
6 not limited to, ~~providing~~ a copy of the complete health and
7 education summary as required under Section 16010, including
8 the name and contact information of the person or persons currently
9 holding the right to make educational decisions for the child.

10 (iii) *In instances where it is determined that disclosure pursuant*
11 *to clause (ii) of the contact information of the person or persons*
12 *currently holding the right to make educational decisions for the*
13 *child poses a threat to the health and safety of that individual or*
14 *those individuals, that contact information shall be redacted or*
15 *withheld from the evaluation.*

16 (D) A preliminary assessment of the eligibility and commitment
17 of any identified prospective adoptive parent or legal guardian,
18 particularly the caretaker, to include a social history including
19 screening for criminal records and prior referrals for child abuse
20 or neglect, the capability to meet the child's needs, and the
21 understanding of the legal and financial rights and responsibilities
22 of adoption and guardianship. If a proposed legal guardian is a
23 relative of the minor, the assessment shall also consider, but need
24 not be limited to, all of the factors specified in subdivision (a) of
25 Section 361.3 and Section 361.4.

26 (E) The relationship of the child to any identified prospective
27 adoptive parent or legal guardian, the duration and character of
28 the relationship, the degree of attachment of the child to the
29 prospective relative guardian or adoptive parent, the relative's or
30 adoptive parent's strong commitment to caring permanently for
31 the child, the motivation for seeking adoption or legal guardianship,
32 a statement from the child concerning placement and the adoption
33 or legal guardianship, and whether the child, if over 12 years of
34 age, has been consulted about the proposed relative guardianship
35 arrangements, unless the child's age or physical, emotional, or
36 other condition precludes his or her meaningful response, and if
37 so, a description of the condition.

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

1 (G) In the case of an Indian child, in addition to subparagraphs
2 (A) to (F), inclusive, an assessment of the likelihood that the child
3 will be adopted, when, in consultation with the child's tribe, a
4 tribal customary adoption, as defined in Section 366.24, is
5 recommended. If tribal customary adoption is recommended, the
6 assessment shall include an analysis of both of the following:

7 (i) Whether tribal customary adoption would or would not be
8 detrimental to the Indian child and the reasons for reaching that
9 conclusion.

10 (ii) Whether the Indian child cannot or should not be returned
11 to the home of the Indian parent or Indian custodian and the reasons
12 for reaching that conclusion.

13 (2) (A) A relative caregiver's preference for legal guardianship
14 over adoption, if it is due to circumstances that do not include an
15 unwillingness to accept legal or financial responsibility for the
16 child, shall not constitute the sole basis for recommending removal
17 of the child from the relative caregiver for purposes of adoptive
18 placement.

19 (B) Regardless of his or her immigration status, a relative
20 caregiver shall be given information regarding the permanency
21 options of guardianship and adoption, including the long-term
22 benefits and consequences of each option, prior to establishing
23 legal guardianship or pursuing adoption. If the proposed permanent
24 plan is guardianship with an approved relative caregiver for a
25 minor eligible for aid under the Kin-GAP Program, as provided
26 for in Article 4.7 (commencing with Section 11385) of Chapter 2
27 of Part 3 of Division 9, the relative caregiver shall be informed
28 about the terms and conditions of the negotiated agreement
29 pursuant to Section 11387 and shall agree to its execution prior to
30 the hearing held pursuant to Section 366.26. A copy of the executed
31 negotiated agreement shall be attached to the assessment.

32 (d) This section shall become operative January 1, 1999. If at
33 any hearing held pursuant to Section 366.26, a legal guardianship
34 is established for the minor with an approved relative caregiver,
35 and juvenile court dependency is subsequently dismissed, the minor
36 shall be eligible for aid under the Kin-GAP Program, as provided
37 for in Article 4.5 (commencing with Section 11360) or Article 4.7
38 (commencing with Section 11385), as applicable, of Chapter 2 of
39 Part 3 of Division 9.

1 (e) As used in this section, “relative” means an adult who is
2 related to the child by blood, adoption, or affinity within the fifth
3 degree of kinship, including stepparents, stepsiblings, and all
4 relatives whose status is preceded by the words “great,”
5 “great-great,” or “grand,” or the spouse of any of those persons
6 even if the marriage was terminated by death or dissolution. If the
7 proposed permanent plan is guardianship with an approved relative
8 caregiver for a minor eligible for aid under the Kin-GAP Program,
9 as provided for in Article 4.7 (commencing with Section 11385)
10 of Chapter 2 of Part 3 of Division 9, “relative” as used in this
11 section has the same meaning as “relative” as defined in
12 subdivision (c) of Section 11391.

13 SEC. 9. Section 16010 of the Welfare and Institutions Code is
14 amended to read:

15 16010. (a) (1) When a child is placed in foster care, the case
16 plan for each child recommended pursuant to Section 358.1 shall
17 include a summary of the health and education information or
18 records, including mental health information or records, of the
19 child. The summary may be maintained in the form of a health
20 and education passport, or a comparable format designed by the
21 child protective agency. The health and education summary shall
22 include, but not be limited to, the names and addresses of the
23 child’s health, dental, and education providers; the name and
24 contact information of the person or persons currently holding the
25 right to make educational decisions for the child; the child’s grade
26 level performance; the child’s school record; assurances that the
27 child’s placement in foster care takes into account proximity to
28 the school in which the child is enrolled at the time of placement;
29 the number of school transfers the child has already experienced;
30 the child’s educational progress, as demonstrated by factors,
31 including, but not limited to, academic proficiency scores; credits
32 earned toward graduation; a record of the child’s immunizations
33 and allergies; the child’s known medical problems; the child’s
34 current medications, past health problems, and hospitalizations; a
35 record of the child’s relevant mental health history; the child’s
36 known mental health condition and medications; and any other
37 relevant mental health, dental, health, and education information
38 concerning the child determined to be appropriate by the Director
39 of Social Services. The health and education summary may also
40 include the name and contact information for the educational

1 liaison, as described in subdivision (c) of Section 48853.5 of the
2 Education Code, of the child’s local educational agency, and the
3 contact information for the nearest foster youth services
4 coordinating program. If any other law imposes more stringent
5 information requirements, then that section shall prevail.

6 (2) *In instances where it is determined that disclosure pursuant*
7 *to paragraph (1) of the contact information of the person or*
8 *persons currently holding the right to make educational decisions*
9 *for the child poses a threat to the health and safety of that*
10 *individual or those individuals, that contact information shall be*
11 *redacted or withheld from the evaluation.*

12 (b) Additionally, a court report or assessment required pursuant
13 to subdivision (g) of Section 361.5, Section 366.1, subdivision (d)
14 of Section 366.21, or subdivision (c) of Section 366.22 shall
15 include a copy of the current health and education summary
16 described in subdivision (a), including the name and contact
17 information of the person or persons currently holding the right to
18 make educational decisions for the child. With respect to a
19 nonminor dependent, as described in subdivision (v) of Section
20 11400, a copy of the current health and education summary shall
21 be included in the court report only if and when the nonminor
22 dependent consents in writing to its inclusion.

23 (c) As soon as possible, but not later than 30 days after initial
24 placement of a child into foster care, the child protective agency
25 shall provide the caregiver with the child’s current health and
26 education summary as described in subdivision (a). For each
27 subsequent placement of a child or nonminor dependent, the child
28 protective agency shall provide the caregiver with a current
29 summary as described in subdivision (a) within 48 hours of the
30 placement. With respect to a nonminor dependent, as described in
31 subdivision (v) of Section 11400, the social worker or probation
32 officer shall advise the young adult of the social worker’s or
33 probation officer’s obligation to provide the health and education
34 summary to the new caregiver and the court, and shall discuss with
35 the youth the benefits and liabilities of sharing that information.

36 (d) (1) Notwithstanding Section 827 or any other law, the child
37 protective agency may disclose any information described in this
38 section to a prospective caregiver or caregivers prior to placement
39 of a child if all of the following requirements are met:

1 (A) The child protective agency intends to place the child with
2 the prospective caregiver or caregivers.

3 (B) The prospective caregiver or caregivers are willing to
4 become the adoptive parent or parents of the child.

5 (C) The prospective caregiver or caregivers have an approved
6 adoption assessment or home study, a foster family home license,
7 certification by a licensed foster family agency, or approval
8 pursuant to the requirements in Sections 361.3 and 361.4.

9 (2) In addition to the information required to be provided under
10 this section, the child protective agency may disclose to the
11 prospective caregiver specified in paragraph (1), placement history
12 or underlying source documents that are provided to adoptive
13 parents pursuant to subdivisions (a) and (b) of Section 8706 of the
14 Family Code.

15 (e) The child's caregiver shall be responsible for reviewing and
16 receiving pupil records pursuant to subdivision (a) of Section
17 49069.3 of the Education Code for the purposes specified in
18 subdivision (b) of Section 49069.3 of the Education Code. The
19 child's caregiver shall be responsible for obtaining and maintaining
20 accurate and thorough information from physicians and educators
21 for the child's summary as described in subdivision (a) during the
22 time that the child is in the care of the caregiver. On each required
23 visit, the child protective agency or its designee foster family
24 agency shall inquire of the caregiver whether there is any new
25 information that should be added to the child's summary as
26 described in subdivision (a). The child protective agency shall
27 update the summary with the information as appropriate, but not
28 later than the next court date or within 48 hours of a change in
29 placement. The child protective agency or its designee foster family
30 agency shall take all necessary steps to assist the caregiver in
31 obtaining relevant health and education information for the child's
32 health and education summary as described in subdivision (a).
33 These steps shall include, but are not limited to, directly obtaining
34 the educational records to share with caregivers, providing
35 documentation caregivers can present to school districts to show
36 their right to access, and explaining caregiver rights and
37 responsibilities with regard to accessing educational information
38 under Sections 49069.3 and 56055 of the Education Code. The
39 caregiver of a nonminor dependent, as described in subdivision
40 (v) of Section 11400, is not responsible for obtaining and

1 maintaining the nonminor dependent’s health and educational
2 information, but may assist the nonminor dependent with any
3 recordkeeping that the nonminor requests of the caregiver.

4 (f) At the initial hearing, the court shall direct each parent to
5 provide to the child protective agency complete medical, dental,
6 mental health, and educational information, and medical
7 background, of the child and of the child’s mother and the child’s
8 biological father if known. The Judicial Council shall create a form
9 for the purpose of obtaining health and education information from
10 the child’s parents or guardians at the initial hearing. The court
11 shall determine at the hearing held pursuant to Section 358 whether
12 the medical, dental, mental health, and educational information
13 has been provided to the child protective agency.

14 SEC. 10. Section 16010.4 of the Welfare and Institutions Code
15 is amended to read:

16 16010.4. The Legislature finds and declares all of the following:

17 (a) Foster parents are one of the most important sources of
18 information about the children in their care. Courts, lawyers, and
19 social workers should have the benefit of caregivers’ perceptions.
20 Both federal and state law recognize the importance of foster
21 parents’ participation in juvenile court proceedings. Federal law
22 requires that foster parents and other caregivers receive expanded
23 opportunities for notice, the right to participate in dependency
24 court review and permanency hearings, and the right to
25 communicate concerns to the courts. State law similarly provides
26 that caregivers may submit their concerns to courts in writing.

27 (b) It is in the children’s best interests that their caregivers are
28 privy to important information about them. This information is
29 necessary to obtain social and health services for children, enroll
30 children in school and extracurricular activities, and update social
31 workers and court personnel about important developments
32 affecting foster children.

33 (c) Most school districts and extracurricular organizations
34 require proof of age before enrolling a child in their programs.
35 Moreover, caregivers are required to obtain a medical appointment
36 for their foster children within the first month of receiving the
37 children into their homes. It would therefore be in both the
38 children’s and the caregivers’ best interests to be provided with
39 any available medical information, medications and instructions

1 for use, and identifying information about the children upon
2 receiving the children into their homes.

3 (d) Caregivers should have certain basic information in order
4 to provide for the needs of children placed in their care, including
5 all of the following:

6 (1) The name, mailing address, telephone number, facsimile
7 number, and email address of the child's social worker and the
8 social worker's supervisor.

9 (2) The name, mailing address, telephone number, facsimile
10 number, and email address of the child's attorney and
11 court-appointed special advocate (CASA), if any.

12 (3) The name, address, and department number of the juvenile
13 court in which the child's juvenile court case is pending.

14 (4) The case number assigned to the child's juvenile court case.

15 (5) A copy of the child's birth certificate, passport, or other
16 identifying documentation of age as may be required for enrollment
17 in school and extracurricular activities.

18 (6) The child's State Department of Social Services
19 identification number.

20 (7) The child's Medi-Cal identification number or group health
21 insurance plan number.

22 (8) Medications or treatments in effect for the child at the time
23 of placement, and instructions for their use.

24 (9) A plan outlining the child's needs and services, including
25 information on family and sibling visitation.

26 (10) A copy of the health and education summary as required
27 under Section 16010, with the name and current contact
28 information of the person or persons currently holding the right to
29 make educational decisions for the child.

30 (e) Caregivers should have knowledge of all of the following:

31 (1) Their right to receive notice of all review and permanency
32 hearings concerning the child during the placement.

33 (2) Their right to attend those hearings or submit information
34 they deem relevant to the court in writing.

35 (3) The "Caregiver Information Form" (Judicial Council Form
36 JV-290), which allows the caregiver to provide information directly
37 to the court.

38 (4) Information about and referrals to any existing services,
39 including transportation, translation, training, forms, and other
40 available services.

1 (5) The caregiver’s obligation to cooperate with any
2 reunification, concurrent, or permanent planning for the child.

3 (6) Any known siblings or half-siblings of the child, whether
4 the child has, expects, or desires to have contact or visitation with
5 any or all siblings, and how and when caregivers facilitate the
6 contact or visitation.

7 (7) The importance of the caregiver’s role in education,
8 educational protections specific to foster youth under state and
9 federal law, and the rights and obligations of caregivers to access
10 and maintain educational and health information, including the
11 requirements under Sections 49069.3, 49076, and 56055 of the
12 Education Code and Section 16010 of this code.

13 (f) Courts should know, at the earliest possible date, the interest
14 of the caretaker in providing legal permanency for the child.

15 SEC. 11. Section 16501.16 is added to the Welfare and
16 Institutions Code, immediately following Section 16501.15, to
17 read:

18 16501.16. In addition to the assurances required to be included
19 in a case plan pursuant to paragraph (8) of subdivision (g) of
20 Section 16501.1, a case plan shall include all of the following:

21 (a) (1) The health and education summary as required under
22 Section 16010, including the name and contact information of the
23 person or persons currently holding the right to make educational
24 decisions for the child.

25 (2) *In instances where it is determined that disclosure pursuant*
26 *to paragraph (1) of the contact information of the person or*
27 *persons currently holding the right to make educational decisions*
28 *for the child poses a threat to the health and safety of that*
29 *individual or those individuals, that contact information shall be*
30 *redacted or withheld from the evaluation.*

31 (b) The same factual discussion regarding educational decisions
32 required in the study under subdivision (e) of Section 358.1.

33 (c) An assurance that the placement agency provided the health
34 and education ~~passport~~ *summary* to the current caregiver, explained
35 to the caregiver his or her rights and responsibilities under Sections
36 49069.3 and 56055 of the Education Code and Section 16010 of
37 this code, and assisted any caregiver in obtaining the information
38 needed for the health and education ~~passport~~ *summary* to comply
39 with Section 16010.

1 SEC. 12. Section 16519.57 is added to the Welfare and
2 Institutions Code, to read:

3 16519.57. The training requirements of subparagraph (I) of
4 paragraph (13) of subdivision (g) of Section 16519.5 shall include
5 training on the importance of the caregiver’s role in education,
6 educational protections specific to foster youth under state and
7 federal law, and the rights and obligations of caregivers to access
8 and maintain educational and health information, including the
9 requirements under Sections 49069.3, 49076, and 56055 of the
10 Education Code and Section 16010 of this code.

11 SEC. 13. To the extent that this act has an overall effect of
12 increasing certain costs already borne by a local agency for
13 programs or levels of service mandated by the 2011 Realignment
14 Legislation within the meaning of Section 36 of Article XIII of
15 the California Constitution, it shall apply to local agencies only to
16 the extent that the state provides annual funding for the cost
17 increase. Any new program or higher level of service provided by
18 a local agency pursuant to this act above the level for which
19 funding has been provided shall not require a subvention of funds
20 by the state or otherwise be subject to Section 6 of Article XIII B
21 of the California Constitution.

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