

DEPENDENCY UPDATE: 2008 STATUTES & RULES

**presented by
Janet G. Sherwood**

DEPENDENCY UPDATE: STATUTES & RULES

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CHAPTER 131
A.B. No. 2310
CHILDREN AND MINORS--DEPENDENCY CASES--FAMILY HISTORY

SECTION 1. Section 391 of the Welfare and Institutions Code is amended to read:

391. (a) At any hearing to terminate jurisdiction over a dependent child who has reached the age of majority, the county welfare department shall do **all** of the following:

(1) Ensure that the child is present in court, unless the child does not wish to appear in court, or document efforts by the county welfare department to locate the child when the child is not available.

(2) Submit a report verifying that the following information, documents, and services have been provided to the child:

(A) Written information concerning the child's dependency case, including **any** known information regarding the child's Indian heritage or tribal connections, if applicable, his or her family history and placement history, **any photographs of the child or his or her family in the possession of the county welfare department, other than forensic photographs,** the whereabouts of any siblings under the jurisdiction of the juvenile court, unless the court determines that sibling contact would jeopardize the safety or welfare of the sibling, directions on how to access the documents the child is entitled to inspect under Section 827, and the date on which the jurisdiction of the juvenile court would be terminated.

(B) The following documents^{***}:

(i) Social security card.

(ii) Certified birth certificate.

(iii) Health and education summary, as described in subdivision (a) of Section 16010.

(iv) Driver's license, as described in Section 12500 of the Vehicle Code, or identification card, as described in Section 13000 of the Vehicle Code.

(v) A letter prepared by the county welfare department that includes the following information:

(I) The child's name and date of birth.

(II) The dates during which the child was within the jurisdiction of the juvenile court.

(III) A statement that the child was a foster youth in compliance with state and federal financial aid documentation requirements.

(vi) If applicable, the death certificate of the parent or parents.

^{***}**(vii)** If applicable, proof of the child's citizenship or legal residence.

(C) Assistance in completing an application for Medi-Cal or assistance in obtaining other health insurance; referral to transitional housing, if available, or assistance in securing other housing; and assistance in obtaining employment or other financial support.

(D) Assistance in applying for admission to college or to a vocational training program or other educational institution and in obtaining financial aid, where appropriate.

(E) Assistance in maintaining relationships with individuals who are important to a child who has been in out-of-home placement in a group home for six months or longer from the date the child entered foster care, based on the child's best interests.

(3) The court may continue jurisdiction if it finds that the county welfare department has not met the requirements of **paragraph (2) of subdivision (a)** and that termination of jurisdiction would be harmful to the best interests of the child. If the court determines that continued jurisdiction is warranted pursuant to this section, the continuation shall only be ordered for that period of time necessary for the county welfare department to meet the requirements of **paragraph (2) of subdivision (a)**. This section shall not be construed to limit the discretion of the juvenile court to continue jurisdiction for other reasons. The court may terminate jurisdiction if the county welfare department has offered the required services, and the child either has refused the services or, after reasonable efforts by the county welfare department, cannot be located.

(b) The Judicial Council shall develop and implement standards, and develop and adopt appropriate forms, necessary to implement this section.

CHAPTER 132

A.B. No. 2483

CHILDREN AND MINORS--DEPENDENT OR NEGLECTED CHILDREN--SUPERVISION

SECTION 1. Section 301 of the Welfare and Institutions Code is amended to read:

301.

....

(c) If the parent is a dependent of the juvenile court at the time that a social worker seeks to undertake a program of supervision pursuant to subdivision (a), including a voluntary family reunification program or a voluntary family maintenance program, and if counsel has been appointed for the parent pursuant to subdivision (c) of Section 317, the program of supervision shall not be undertaken until the parent has consulted with his or her counsel.

CHAPTER 166
A.B. No. 3051
CHILDREN AND MINORS--JUVENILE COURTS--GUARDIANSHIP

SECTION 1. It is the intent of the Legislature that all children who want to attend their juvenile court hearings be given the means and the opportunity to attend, that these hearings be set to accommodate children's schedules, and that courtrooms and waiting areas help facilitate their attendance and participation. It is also the intent of the Legislature that juvenile courts promote communication with, and the participation of, children in attendance at hearings of which they are the subject, and that children attending these hearings leave the hearing with a clear understanding of what decisions the court made and why, and that the Administrative Office of the Courts help promote these objectives.

SEC. 2. Section 1517 of the Probate Code is amended to read:

1517. (a) This part does not apply to guardianships resulting from the selection and implementation of a permanent plan pursuant to Section ***366.26 of the Welfare and Institutions Code. For those minors, *****Section 366.26** of the Welfare and Institutions Code and Division **3** (commencing with Rule **5.500**) of Title **Five** of the California Rules of Court specify the exclusive procedures for establishing, modifying, and terminating legal guardianships. If no specific provision of the Welfare and Institutions Code or the California Rules of Court is applicable, the provisions applicable to the administration of estates under Part 4 (commencing with Section 2100) govern so far as they are applicable to like situations.

(b) This chapter shall not be construed to prevent a court that assumes jurisdiction of a minor child pursuant to Section 300 of the Welfare and Institutions Code, or a probate court, as appropriate, from issuing orders or making appointments, on motion of the child's counsel, consistent with Division 2 of the Welfare and Institutions Code or Divisions 4 to 6, inclusive, of the Probate Code necessary to ensure the appropriate administration of funds for the benefit of the child. Orders or appointments regarding those funds may continue after the court's jurisdiction is terminated pursuant to Section 391 of the Welfare and Institutions Code.

SEC. 3. Section 349 of the Welfare and Institutions Code is amended to read:

349. (a) A minor who is the subject of a juvenile court hearing and any person entitled to notice of the hearing under the provisions of Sections 290.1 and 290.2, is entitled to be present at the hearing.

(b) The minor and any person who is entitled to that notice has the right to be represented at the hearing by counsel of his or her own choice.

(c) If the minor is present at the hearing, the court shall allow the minor, if the minor so desires, to address the court and participate in the hearing.

(d) If the minor is 10 years of age or older and he or she is not present at the hearing, the court shall determine whether the minor was properly notified of his or her right to attend the hearing and inquire whether the minor was given an opportunity to attend. If that minor was not properly notified or

if he or she wished to be present and was not given an opportunity to be present, the court shall continue the hearing to allow the minor to be present unless the court finds that it is in the best interest of the minor not to continue the hearing. The court shall continue the hearing only for that period of time necessary to provide notice and secure the presence of the child. The court may issue any and all orders reasonably necessary to ensure that the child has an opportunity to attend.

(e) Nothing in this section shall prevent or limit any child's right to attend or participate in the hearing.

CHAPTER 181
S.B. No. 1612
FAMILY LAW--CIVIL PROCEDURE--GUARDIAN AD LITEM

SECTION 1. Section 372 of the Code of Civil Procedure is amended to read:

372.

....

(c)(1) Notwithstanding subdivision (a), a minor may appear in court without a guardian ad litem in the following proceedings if the minor is a parent of the child who is the subject of the proceedings:

(A) Family court proceedings pursuant to Part 3 (commencing with Section 7600) of Division 12 of the Family Code.

(B) Dependency proceedings pursuant to Chapter 2 (commencing with Section 200) of Part 1 of Division 2 of the Welfare and Institutions Code.

(C) Guardianship proceedings for a minor child pursuant to Part 2 (commencing with Section 1500) of Division 4 of the Probate Code.

(D) Any other proceedings concerning child custody, visitation, or support.

(2) If the court finds that the minor parent is unable to understand the nature of the proceedings or to assist counsel in preparing the case, the court shall, upon its own motion or upon a motion by the minor parent or the minor parent's counsel, appoint a guardian ad litem.

SEC. 2. Section 7635 of the Family Code is amended to read:

7635.

....

(b) The natural mother, each man presumed to be the father under Section 7611, and each man alleged to be the natural father, may be made parties and shall be given notice of the action in the manner prescribed in Section 7666 and an opportunity to be heard. **Appointment of a guardian ad litem shall not be required for a minor who is a parent of the child who is the subject of the petition to establish parental relationship, unless the minor parent is unable to understand the nature of the proceedings or to assist counsel in preparing the case.**

....

SEC. 3. Section 326.7 is added to the Welfare and Institutions Code, to read:

326.7. Appointment of a guardian ad litem shall not be required for a minor who is a parent of the child who is the subject of the dependency petition, unless the minor parent is unable to understand the nature of the proceedings or to assist counsel in preparing the case.

CHAPTER 457

A.B. No. 2341

SOCIAL SERVICES--FOSTER CARE--REUNIFICATION SERVICES

SECTION 1. Section 361.5 of the Welfare and Institutions Code is amended to read:

361.5. (a) Except as provided in subdivision (b), or when the parent has voluntarily relinquished the child and the relinquishment has been filed with the State Department of Social Services, or upon the establishment of an order of guardianship pursuant to Section 360, whenever a child is removed from a parent's or guardian's custody, the juvenile court shall order the social worker to provide child welfare services to the child and the child's mother and statutorily presumed father or guardians. Upon a finding and declaration of paternity by the juvenile court or proof of a prior declaration of paternity by any court of competent jurisdiction, the juvenile court may order services for the child and the biological father, if the court determines that the services will benefit the child. *****Family reunification** services, when provided, shall be provided as follows:

(1) **Except as otherwise provided in paragraph (3), f** for a child who, on the date of initial removal from the physical custody of his or her parent or guardian, was three years of age or older, court-ordered services shall *****be provided during the** period of *****time beginning with the dispositional hearing and ending with** the date **of the hearing set pursuant to subdivision (f) of Section 366.21, unless** the child *****is returned to the home of the parent or guardian.**

(2) For a child who, on the date of initial removal from the physical custody of his or her parent or guardian, was under the age of three years, court-ordered services shall *****be provided during the**

period of ***time beginning with the dispositional hearing and ending with the date of the hearing set pursuant to subdivision (e) of Section 366.21, unless the child ***is returned to the home of the parent or guardian.

(3) For the purpose of placing and maintaining a sibling group together in a permanent home should reunification efforts fail, for a child in a sibling group whose members were removed from parental custody at the same time, and in which one member of the sibling group was under the age of three years on the date of initial removal from the physical custody of his or her parent or guardian, court-ordered services to some or all of the sibling group may be limited to a period of six months from the date the child entered foster care. For the purposes of this paragraph, "a sibling group" shall mean two or more children who are related to each other as full or half-siblings.

Regardless of the age of the child, a child shall be deemed to have entered foster care on the earlier of the date of the jurisdictional hearing held pursuant to Section 356 or the date that is 60 days after the date on which the child was initially removed from the physical custody of his or her parent or guardian.

Any motion to terminate court-ordered reunification services prior to the hearing set pursuant to subdivision (f) of Section 366.21 for a child described by paragraph (1), or within six months of the initial dispositional hearing for a child described by paragraph (2) or this paragraph, shall be made pursuant to the requirements set forth in subdivision (c) of Section 388.

....

SEC. 2. Section 388 of the Welfare and Institutions Code is amended to read:

388.

....

(c)(1) Any party, including a child who is a dependent of the juvenile court, may petition the court, prior to the hearing set pursuant to subdivision (f) of Section 366.21 for a child described by paragraph (1) of subdivision (a) of Section 361.5, or within six months of the initial dispositional hearing for a child described by paragraph (2) or (3) of subdivision (a) of Section 361.5, to terminate court-ordered reunification services provided under subdivision (a) of Section 361.5 only if one of the following conditions exists:

(A) It appears that a change of circumstance or new evidence exists that satisfies a condition set forth in subdivision (b) or (e) of Section 361.5 justifying termination of court-ordered reunification services.

(B) The action or inaction of the parent or guardian creates a substantial likelihood that reunification will not occur, including, but not limited to, the parent or guardian's failure to visit the child, or the failure of the parent or guardian to participate regularly and make substantive progress in a court-ordered treatment plan.

(2) In determining whether the parent or guardian has failed to visit the child or participate regularly or make progress in the treatment plan, the court shall consider factors including, but not limited to, the parent or guardian's incarceration, institutionalization, or participation in a residential substance abuse treatment program.

(3) The court shall terminate reunification services during the above-described time periods only upon a finding by a preponderance of evidence that reasonable services have been offered or provided, and upon a finding of clear and convincing evidence that one of the conditions in subparagraph (A) or (B) of paragraph (1) exists.

(4) If the court terminates reunification services, it shall order that a hearing pursuant to Section 366.26 be held within 120 days.

(d) If it appears that the best interests of the child may be promoted by the proposed change of order, recognition of a sibling relationship, ***termination of jurisdiction, **or clear and convincing evidence supports revocation or termination of court-ordered reunification services,** the court shall order that a hearing be held and shall give prior notice, or cause prior notice to be given, to the persons and by the means prescribed by Section 386, and, in those instances in which the means of giving notice is not prescribed by those sections, then by means the court prescribes.

CHAPTER 482

A.B. No. 2070

SOCIAL SERVICES--FOSTER CARE--INCARCERATED PARENTS

SEC. 1.7. Section 361.5 of the Welfare and Institutions Code is amended to read:

361.5. (a) Except as provided in subdivision (b), or when the parent has voluntarily relinquished the child and the relinquishment has been filed with the State Department of Social Services, or upon the establishment of an order of guardianship pursuant to Section 360, whenever a child is removed from a parent's or guardian's custody, the juvenile court shall order the social worker to provide child welfare services to the child and the child's mother and statutorily presumed father or guardians. Upon a finding and declaration of paternity by the juvenile court or proof of a prior declaration of paternity by any court of competent jurisdiction, the juvenile court may order services for the child and the biological father, if the court determines that the services will benefit the child.***

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

*****(A) Except as otherwise provided in subparagraph (C),** for a child who, on the date of initial removal from the physical custody of his or her parent or guardian, was three years of age or older, court-ordered services shall *****be provided during the period of time beginning with the dispositional hearing and ending with the date of the hearing set pursuant to subdivision (f) of Section 366.21, unless the child is returned to the home of the parent or guardian.**

(B) For a child who, on the date of initial removal from the physical custody of his or her parent or guardian, was under ***three years **of age,** court-ordered services shall *****be provided during the**

period of time beginning with the dispositional hearing and ending with the date of the hearing set pursuant to subdivision (e) of Section 366.21, unless the child is returned to the home of the parent or guardian.

(C) For the purpose of placing and maintaining a sibling group together in a permanent home should reunification efforts fail, for a child in a sibling group whose members were removed from parental custody at the same time, and in which one member of the sibling group was under *****three years of age** on the date of initial removal from the physical custody of his or her parent or guardian, court-ordered services to some or all of the sibling group may be limited to a period of six months from the date the child entered foster care. For the purposes of this paragraph, "a sibling group" shall mean two or more children who are related to each other as full or **half siblings**.

Regardless of the age of the child, a child shall be deemed to have entered foster care on the earlier of the date of the jurisdictional hearing held pursuant to Section 356 or the date that is 60 days after the date on which the child was initially removed from the physical custody of his or her parent or guardian.

Any motion to terminate court-ordered reunification services prior to the hearing set pursuant to subdivision (f) of Section 366.21 for a child described by paragraph (1), or within six months of the initial dispositional hearing for a child described by paragraph (2) or this paragraph, shall be made pursuant to the requirements set forth in subdivision (c) of Section 388.

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

When counseling or other treatment services are ordered, the parent or guardian shall be ordered to participate in those services, unless the parent's or guardian's participation is deemed by the court to be inappropriate or potentially detrimental to the child, **or unless a parent or guardian is incarcerated and the corrections facility in which he or she is incarcerated does not provide access to the treatment services ordered by the court.** Physical custody of the child by the parents or guardians during the applicable time period under **subparagraph (A), (B), or (C) of paragraph (1) *****shall not serve to interrupt the running of the period. If at the end of the applicable time period, a child cannot be

safely returned to the care and custody of a parent or guardian without court supervision, but the child clearly desires contact with the parent or guardian, the court shall take the child's desire into account in devising a permanency plan.

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

(3) Notwithstanding paragraph (2), court-ordered services may be extended up to a maximum time period not to exceed 24 months after the date the child was originally removed from physical custody of his or her parent or guardian if it is shown, at the hearing held pursuant to subdivision (b) of Section 366.22, that the permanent plan for the child is that he or she will be returned and safely maintained in the home within the extended time period. The court shall extend the time period only if it finds that it is in the child's best interest to have the time period extended and that there is a substantial probability that the child will be returned to the physical custody of his or her parent or guardian who is described in subdivision (b) of Section 366.22 within the extended time period, or that reasonable services have not been provided to the parent or guardian. If the court extends the time period, the court shall specify the factual basis for its conclusion that there is a substantial probability that the child will be returned to the physical custody of his or her parent or guardian within the extended time period. The court also shall make findings pursuant to subdivision (a) of Section 366 and subdivision (e) of Section 358.1.

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

....

(e)(1) If the parent or guardian is incarcerated or institutionalized, the court shall order reasonable services unless the court determines, by clear and convincing evidence, those services would be detrimental to the child. In determining detriment, the court shall consider the age of the child, the degree of parent-child bonding, the length of the sentence, the **length and** nature of the treatment, the nature of the crime or illness, the degree of detriment to the child if services are not offered and, for children 10 years of age or older, the child's attitude toward the implementation of family reunification services, **the likelihood of the parent's discharge from incarceration or institutionalization within the reunification time limitations described in subdivision (a)**, and any other appropriate factors. **In**

determining the content of reasonable services, the court shall consider the particular barriers to an incarcerated or otherwise institutionalized parent's access to those court-mandated services and ability to maintain contact with his or her child, and shall document this information in the child's case plan. Reunification services are subject to the applicable time limitations imposed in subdivision (a). Services may include, but shall not be limited to, all of the following:

- (A) Maintaining contact between the parent and child through collect telephone calls.
- (B) Transportation services, where appropriate.
- (C) Visitation services, where appropriate.
- (D) Reasonable services to extended family members or foster parents providing care for the child if the services are not detrimental to the child.

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

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

....

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

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

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

(c) At least 10 calendar days prior to the hearing, the social worker shall file a supplemental report with the court regarding the services provided or offered to the parent or legal guardian to enable him or her to assume custody and the efforts made to achieve legal permanence for the child if efforts to reunify fail, including, but not limited to, efforts to maintain relationships between a child who is 10 years of age or older and has been in out-of-home placement for six months or longer and individuals who are important to the child, consistent with the child's best interests; the progress made; and, where relevant,

the prognosis for return of the child to the physical custody of his or her parent or legal guardian; and shall make his or her recommendation for disposition. If the child is a member of a sibling group described in **subparagraph (C) of paragraph (1)** of subdivision (a) of Section 361.5, the report and recommendation may also take into account those factors described in subdivision (e) relating to the child's sibling group. If the recommendation is not to return the child to a parent or legal guardian, the report shall specify why the return of the child would be detrimental to the child. The social worker shall provide the parent or legal guardian, counsel for the child, and any court-appointed child advocate with a copy of the report, including his or her recommendation for disposition, at least 10 calendar days prior to the hearing. In the case of a child removed from the physical custody of his or her parent or legal guardian, the social worker shall, at least 10 calendar days prior to the hearing, provide a summary of his or her recommendation for disposition to any foster parents, relative caregivers, and certified foster parents who have been approved for adoption by the State Department of Social Services when it is acting as an adoption agency in counties that are not served by a county adoption agency or by a licensed county adoption agency, community care facility, or foster family agency having the physical custody of the child. The social worker shall include a copy of the Judicial Council Caregiver Information Form (JV-290) with the summary of recommendations to the child's foster parents, relative caregivers, or foster parents approved for adoption, in the caregiver's primary language when available, along with information on how to file the form with the court.

....

(e) At the review hearing held six months after the initial dispositional hearing, the court shall order the return of the child to the physical custody of his or her parent or legal guardian unless the court finds, by a preponderance of the evidence, that the return of the child to his or her parent or legal guardian would create a substantial risk of detriment to the safety, protection, or physical or emotional well-being of the child. The social worker shall have the burden of establishing that detriment. At the hearing, the court shall consider the criminal history, obtained pursuant to paragraph (1) of subdivision (f) of Section 16504.5, of the parent or legal guardian subsequent to the child's removal *****to the extent that the criminal record is substantially related to the welfare of the child or the parent's or guardian's ability to exercise custody and control regarding his or her child, provided the parent or legal guardian** agreed to submit fingerprint images to obtain criminal history information as part of the case plan. The failure of the parent or legal guardian to participate regularly and make substantive progress in court-ordered treatment programs shall be prima facie evidence that return would be detrimental. In making its determination, the court shall review and consider the social worker's report and recommendations and the report and recommendations of any child advocate appointed pursuant to Section 356.5; and shall consider the efforts or progress, or both, demonstrated by the parent or legal guardian and the extent to which he or she availed himself or herself to services provided, **taking into account the particular barriers to an incarcerated or institutionalized parent or legal guardian's access to those court-mandated services and ability to maintain contact with his or her child.**

Regardless of whether the child is returned to a parent or legal guardian, the court shall specify the factual basis for its conclusion that the return would be detrimental or would not be detrimental. The court also shall make appropriate findings pursuant to subdivision (a) of Section 366; and, where relevant, shall order any additional services reasonably believed to facilitate the return of the child to the custody of his or her parent or legal guardian. The court shall also inform the parent or legal guardian that if the child cannot be returned home by the 12-month permanency hearing, a proceeding pursuant to

Section 366.26 may be instituted. This section does not apply in a case where, pursuant to Section 361.5, the court has ordered that reunification services shall not be provided.

If the child was under ~~***~~three years **of age** on the date of the initial removal, or is a member of a sibling group described in **subparagraph (C) of** paragraph **(1)** of subdivision (a) of Section 361.5, and the court finds by clear and convincing evidence that the parent failed to participate regularly and make substantive progress in a court-ordered treatment plan, the court may schedule a hearing pursuant to Section 366.26 within 120 days. If, however, the court finds there is a substantial probability that the child, who was under ~~***~~three years **of age** on the date of initial removal or is a member of a sibling group described in **subparagraph (C) of** paragraph **(1)** of subdivision (a) of Section 361.5, may be returned to his or her parent or legal guardian within six months or that reasonable services have not been provided, the court shall continue the case to the 12-month permanency hearing.

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

If the child was removed initially under subdivision (g) of Section 300 and the court finds by clear and convincing evidence that the whereabouts of the parent are still unknown, or the parent has failed to contact and visit the child, the court may schedule a hearing pursuant to Section 366.26 within 120 days. **The court shall take into account any particular barriers to a parent's ability to maintain contact with his or her child due to the parent's incarceration or institutionalization.** If the court finds by clear and convincing evidence that the parent has been convicted of a felony indicating parental unfitness, the court may schedule a hearing pursuant to Section 366.26 within 120 days.

....

(f) The permanency hearing shall be held no later than 12 months after the date the child entered foster care, as that date is determined pursuant to subdivision (a) of Section 361.5. At the permanency hearing, the court shall determine the permanent plan for the child, which shall include a determination of whether the child will be returned to the child's home and, if so, when, within the time limits of subdivision (a) of Section 361.5. The court shall order the return of the child to the physical custody of his or her parent or legal guardian unless the court finds, by a preponderance of the evidence, that the return of the child to his or her parent or legal guardian would create a substantial risk of detriment to the safety, protection, or physical or emotional well-being of the child. The social worker shall have the

burden of establishing that detriment. At the permanency hearing, the court shall consider the criminal history, obtained pursuant to paragraph (1) of subdivision (f) of Section 16504.5, of the parent or legal guardian subsequent to the child's removal **to the extent that the criminal record is substantially related to the welfare of the child or the parent or legal guardian's ability to exercise custody and control regarding his or her child**, provided that *****the parent or legal guardian** agreed to submit fingerprint images to obtain criminal history information as part of the case plan. The court shall also determine whether reasonable services that were designed to aid the parent or legal guardian to overcome the problems that led to the initial removal and continued custody of the child have been provided or offered to the parent or legal guardian. For each youth 16 years of age and older, the court shall also determine whether services have been made available to assist him or her in making the transition from foster care to independent living. The failure of the parent or legal guardian to participate regularly and make substantive progress in court-ordered treatment programs shall be prima facie evidence that return would be detrimental. In making its determination, the court shall review and consider the social worker's report and recommendations and the report and recommendations of any child advocate appointed pursuant to Section 356.5, shall consider the efforts or progress, or both, demonstrated by the parent or legal guardian and the extent to which he or she availed himself or herself of services provided, **taking into account the particular barriers to an incarcerated or institutionalized parent or legal guardian's access to those court-mandated services and ability to maintain contact with his or her child** and shall make appropriate findings pursuant to subdivision (a) of Section 366.

Regardless of whether the child is returned to his or her parent or legal guardian, the court shall specify the factual basis for its decision. If the child is not returned to a parent or legal guardian, the court shall specify the factual basis for its conclusion that the return would be detrimental. The court also shall make a finding pursuant to subdivision (a) of Section 366. If the child is not returned to his or her parent or legal guardian, the court shall consider, and state for the record, in-state and out-of-state placement options. If the child is placed out of the state, the court shall make a determination whether the out-of-state placement continues to be appropriate and in the best interests of the child.

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

....

SEC. 3. Section 366.22 of the Welfare and Institutions Code is amended to read:

366.22. (a) When a case has been continued pursuant to paragraph (1) of subdivision (g) of Section 366.21, the permanency review hearing shall occur within 18 months after the date the child was originally removed from the physical custody of his or her parent or legal guardian. The court shall order the return of the child to the physical custody of his or her parent or legal guardian unless the court finds, by a preponderance of the evidence, that the return of the child to his or her parent or legal guardian would create a substantial risk of detriment to the safety, protection, or physical or emotional well-being of the child. The social worker shall have the burden of establishing that detriment. At the permanency review hearing, the court shall consider the criminal history, obtained pursuant to paragraph

(1) of subdivision (f) of Section 16504.5, of the parent or legal guardian subsequent to the child's removal, **to the extent that the criminal record is substantially related to the welfare of the child or the parent's or legal guardian's ability to exercise custody and control regarding his or her child,** provided that *****the parent or legal guardian** agreed to submit fingerprint images to obtain criminal history information as part of the case plan. The failure of the parent or legal guardian to participate regularly and make substantive progress in court-ordered treatment programs shall be prima facie evidence that return would be detrimental. In making its determination, the court shall review and consider the social worker's report and recommendations and the report and recommendations of any child advocate appointed pursuant to Section 356.5; shall consider the efforts or progress, or both, demonstrated by the parent or legal guardian and the extent to which he or she availed himself or herself of services provided, **taking into account the particular barriers of an incarcerated or institutionalized parent or legal guardian's access to those court-mandated services and ability to maintain contact with his or her child;** and shall make appropriate findings pursuant to subdivision (a) of Section 366.

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

*****Unless the conditions in subdivision (b) are met and** the child is not returned to a parent or legal guardian at the permanency review hearing, the court shall order that a hearing be held pursuant to Section 366.26 in order to determine whether adoption, guardianship, or long-term foster care is the most appropriate plan for the child. However, if the court finds by clear and convincing evidence, based on the evidence already presented to it, including a recommendation by the State Department of Social Services when it is acting as an adoption agency in counties that are not served by a county adoption agency or by a licensed county adoption agency, that there is a compelling reason, as described in paragraph (3) of subdivision (g) of Section 366.21, for determining that a hearing held under Section 366.26 is not in the best interest of the child because the child is not a proper subject for adoption and has no one willing to accept legal guardianship, then the court may, only under these circumstances, order that the child remain in foster care. If the court orders that a child who is 10 years of age or older remain in long-term foster care, the court shall determine whether the agency has made reasonable efforts to maintain the child's relationships with individuals other than the child's siblings who are important to the child, consistent with the child's best interests, and may make any appropriate order to ensure that those relationships are maintained. The hearing shall be held no later than 120 days from the date of the permanency review hearing. The court shall also order termination of reunification services to the parent or legal guardian. The court shall continue to permit the parent or legal guardian to visit the child unless it finds that visitation would be detrimental to the child. The court shall determine whether reasonable services have been offered or provided to the parent or legal guardian. For purposes of this subdivision, evidence of any of the following circumstances shall not, in and of themselves, be deemed a failure to provide or offer reasonable services:

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

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

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

(b) If the child is not returned to a parent or legal guardian at the permanency review hearing and the court determines by clear and convincing evidence that the best interests of the child would be met by the provision of additional reunification services to a parent or legal guardian who is making significant and consistent progress in a substance abuse treatment program, or a parent recently discharged from incarceration or institutionalization and making significant and consistent progress in establishing a safe home for the child's return, the court may continue the case for up to six months for a subsequent permanency review hearing, provided that the hearing shall occur within 24 months of the date the child was originally taken from the physical custody of his or her parent or legal guardian. The court shall continue the case only if it finds that there is a substantial probability that the child will be returned to the physical custody of his or her parent or legal guardian and safely maintained in the home within the extended period of time or that reasonable services have not been provided to the parent or legal guardian. For the purposes of this section, in order to find a substantial probability that the child will be returned to the physical custody of his or her parent or legal guardian and safely maintained in the home within the extended period of time, the court shall be required to find all of the following:

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

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

(3) The parent or legal guardian has demonstrated the capacity and ability both to complete the objectives of his or her substance abuse treatment plan as evidenced by reports from a substance abuse provider as applicable, or complete a treatment plan postdischarge from incarceration or institutionalization, and to provide for the child's safety, protection, physical and emotional well-being, and special needs.

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

The court shall inform the parent or legal guardian that if the child cannot be returned home by the subsequent permanency review hearing, a proceeding pursuant to Section 366.26 may be instituted. The court may not order that a hearing pursuant to Section 366.26 be held unless there

is clear and convincing evidence that reasonable services have been provided or offered to the parent or legal guardian.

(c)(1) Whenever a court orders that a hearing pursuant to Section 366.26 shall be held, it shall direct the agency supervising the child and the licensed county adoption agency, or the State Department of Social Services when it is acting as an adoption agency in counties that are not served by a county adoption agency, to prepare an assessment that shall include:

....

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

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

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

SEC. 4. Section 366.25 is added to the Welfare and Institutions Code, to read:

366.25. (a)(1) When a case has been continued pursuant to subdivision (b) of Section 366.22, the subsequent permanency review hearing shall occur within 24 months after the date the child was originally removed from the physical custody of his or her parent or legal guardian. The court shall order the return of the child to the physical custody of his or her parent or legal guardian unless the court finds, by a preponderance of the evidence, that the return of the child to his or her parent or legal guardian would create a substantial risk of detriment to the safety, protection, or physical or emotional well-being of the child. The social worker shall have the burden of establishing that detriment. At the subsequent permanency review hearing, the court shall consider the criminal history, obtained pursuant to paragraph (1) of subdivision (f) of Section 16504.5, of the parent or legal guardian subsequent to the child's removal to the extent that the criminal record is substantially related to the welfare of the child or parent or legal guardian's ability to exercise custody and control regarding his or her child provided that the parent or legal guardian agreed to submit fingerprint images to obtain criminal history information as part of the case plan. The failure of the parent or legal guardian to participate regularly and make substantive progress in court-ordered treatment programs shall be prima facie evidence that return would be detrimental. In making its determination, the court shall review and consider the social worker's report and recommendations and the report and recommendations of any child advocate appointed pursuant to Section 356.5; shall consider the efforts or progress, or both, demonstrated by the parent or legal guardian and the extent to which he or she availed himself or herself of services provided; and shall make appropriate findings pursuant to subdivision (a) of Section 366.

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

(3) If the child is not returned to a parent or legal guardian at the subsequent permanency review hearing, the court shall order that a hearing be held pursuant to Section 366.26 in order to determine whether adoption, guardianship, or long-term foster care is the most appropriate plan for the child. However, if the court finds by clear and convincing evidence, based on the evidence already presented to it, including a recommendation by the State Department of Social Services when it is acting as an adoption agency in counties that are not served by a county adoption agency or by a licensed county adoption agency, that there is a compelling reason, as described in paragraph (3) of subdivision (g) of Section 366.21, for determining that a hearing held under Section 366.26 is not in the best interest of the child because the child is not a proper subject for adoption and has no one willing to accept legal guardianship, then the court may, only under these circumstances, order that the child remain in foster care. If the court orders that a child who is 10 years of age or older remain in long-term foster care, the court shall determine whether the agency has made reasonable efforts to maintain the child's relationships with individuals other than the child's siblings who are important to the child, consistent with the child's best interests, and may make any appropriate order to ensure that those relationships are maintained. The hearing shall be held no later than 120 days from the date of the subsequent permanency review hearing. The court shall also order termination of reunification services to the parent or legal guardian. The court shall continue to permit the parent or legal guardian to visit the child unless it finds that visitation would be detrimental to the child. The court shall determine whether reasonable services have been offered or provided to the parent or legal guardian. For purposes of this subdivision, evidence of any of the following circumstances shall not, in and of themselves, be deemed a failure to provide or offer reasonable services:

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

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

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

(b)(1) Whenever a court orders that a hearing pursuant to Section 366.26 shall be held, it shall direct the agency supervising the child and the licensed county adoption agency, or the State Department of Social Services when it is acting as an adoption agency in counties that are not served by a county adoption agency, to prepare an assessment that shall include:

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

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

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

(D) A preliminary assessment of the eligibility and commitment of any identified prospective adoptive parent or legal guardian, particularly the caretaker, to include a social history including screening for criminal records and prior referrals for child abuse or neglect, the capability to meet the child's needs, and the understanding of the legal and financial rights and responsibilities of adoption and guardianship. If a proposed legal guardian is a relative of the minor, and the relative was assessed for foster care placement of the minor prior to January 1, 1998, the assessment shall also consider, but need not be limited to, all of the factors specified in subdivision (a) of Section 361.3.

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

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

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

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

(c) If, at any hearing held pursuant to Section 366.26, a guardianship is established for the minor with a relative, and juvenile court dependency is subsequently dismissed, the relative shall be eligible for aid under the Kin-GAP Program, as provided for in Article 4.5 (commencing with Section 11360) of Chapter 2 of Part 3 of Division 9.

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

(e) The implementation and operation of subdivision (a) enacted at the 2005-06 Regular Session shall be subject to appropriation through the budget process and by phase, as provided in Section 366.35.

SEC. 5. Section 366.26 of the Welfare and Institutions Code is amended to read:

366.26.

....

(b) At the hearing, which shall be held in juvenile court for all children who are dependents of the juvenile court, the court, in order to provide stable, permanent homes for these children, shall review the report as specified in Section 361.5, 366.21, ~~***366.22,~~ **or 366.25,** shall indicate that the court has read and considered it, shall receive other evidence that the parties may present, and then shall make findings and orders in the following order of preference:

(1) Terminate the rights of the parent or parents and order that the child be placed for adoption and, upon the filing of a petition for adoption in the juvenile court, order that a hearing be set. The court shall proceed with the adoption after the appellate rights of the natural parents have been exhausted.

(2) Appoint a relative or relatives with whom the child is currently residing as legal guardian or guardians for the child, and order that letters of guardianship issue.

(3) On making a finding under paragraph (3) of subdivision (c), identify adoption as the permanent placement goal and order that efforts be made to locate an appropriate adoptive family for the child within a period not to exceed 180 days.

(4) Appoint a nonrelative legal guardian for the child and order that letters of guardianship issue.

(5) Order that the child be placed in long-term foster care, subject to the periodic review of the juvenile court under Section 366.3.

In choosing among the above alternatives the court shall proceed pursuant to subdivision (c).

(c)(1) If the court determines, based on the assessment provided as ordered under subdivision (i) of Section 366.21, subdivision (b) of Section 366.22, **or subdivision (b) of Section 366.25,** and any other relevant evidence, by a clear and convincing standard, that it is likely the child will be adopted, the court shall terminate parental rights and order the child placed for adoption. The fact that the child is not yet placed in a preadoptive home nor with a relative or foster family who is prepared to adopt the child, shall not constitute a basis for the court to conclude that it is not likely the child will be adopted. A finding under subdivision (b) or paragraph (1) of subdivision (e) of Section 361.5 that reunification services shall not be offered, under subdivision (e) of Section 366.21 that the whereabouts of a parent have been unknown for six months or that the parent has failed to visit or contact the child for six months, or that the parent has been convicted of a felony indicating parental unfitness, or, under Section 366.21 or 366.22, that the court has continued to remove the child from the custody of the parent or guardian and has terminated reunification services, shall constitute a sufficient basis for termination of parental rights. Under these circumstances, the court shall terminate parental rights unless either of the following applies:

....

(3) If the court finds that termination of parental rights would not be detrimental to the child pursuant to paragraph (1) and that the child has a probability for adoption but is difficult to place for adoption and there is no identified or available prospective adoptive parent, the court may identify adoption as the permanent placement goal and without terminating parental rights, order that efforts be made to locate an appropriate adoptive family for the child, within the state or out of the state, within a period not to exceed 180 days. During this 180-day period, the public agency responsible for seeking adoptive parents for each child shall, to the extent possible, ask each child who is 10 years of age or older, to identify any individuals, other than the child's siblings, who are important to the child, in order to identify potential adoptive parents. The public agency may ask any other child to provide that information, as appropriate. During the 180-day period, the public agency shall, to the extent possible, contact other private and public adoption agencies regarding the availability of the child for adoption. During the 180-day period, the public agency shall conduct the search for adoptive parents in the same manner as prescribed for children in Sections 8708 and 8709 of the Family Code. At the expiration of this period, another hearing shall be held and the court shall proceed pursuant to paragraph (1) or (4) of subdivision (b). For purposes of this section, a child may only be found to be difficult to place for adoption if there is no identified or available prospective adoptive parent for the child because of the child's membership in a sibling group, or the presence of a diagnosed medical, physical, or mental handicap, or the child is ~~seven~~ **of age** or more.

....

(d) The proceeding for the appointment of a guardian for a child who is a dependent of the juvenile court shall be in the juvenile court. If the court finds pursuant to this section that legal guardianship is the appropriate permanent plan, it shall appoint the legal guardian and issue letters of guardianship. The assessment prepared pursuant to subdivision (g) of Section 361.5, subdivision (i) of Section 366.21, ~~subdivision (b) of Section 366.22,~~ **and subdivision (b) of Section 366.25** shall be read and considered by the court prior to the appointment, and this shall be reflected in the minutes of the court. The person preparing the assessment may be called and examined by any party to the proceeding.

....

(l)(4) The intent of this subdivision is to do both of the following:

(A) Make every reasonable attempt to achieve a substantive and meritorious review by the appellate court within the time specified in Sections 366.21, 366.22, **and 366.25** for holding a hearing pursuant to this section.

(B) Encourage the appellate court to determine all writ petitions filed pursuant to this subdivision on their merits.

(5) This subdivision shall only apply to cases in which an order to set a hearing pursuant to this section is issued on or after January 1, 1995.

....

SEC. 6. Section 366.27 of the Welfare and Institutions Code is amended to read:

366.27. (a) If a court, pursuant to paragraph (3) of subdivision (g) of Section 366.21, Section 366.22, **Section 366.25**, or Section 366.26, orders the placement of a minor in a planned permanent living arrangement with a relative, the court may authorize the relative to provide the same legal consent for the minor's medical, surgical, and dental care as the custodial parent of the minor.

....

SEC. 7. Section 366.3 of the Welfare and Institutions Code is amended to read:

366.3.

....

(b) If the court has dismissed dependency jurisdiction following the establishment of a legal guardianship, or no dependency jurisdiction attached because of the granting of a legal guardianship pursuant to Section 360, and the legal guardianship is subsequently revoked or otherwise terminated, the county department of social services or welfare department shall notify the juvenile court of this fact. The court may vacate its previous order dismissing dependency jurisdiction over the child.

Notwithstanding Section 1601 of the Probate Code, the proceedings to terminate a legal guardianship that has been granted pursuant to Section 360 or 366.26 shall be held **either** in the juvenile court **that retains jurisdiction over the guardianship as authorized by Section 366.4 or the juvenile court in the county where the guardian and child currently reside, based on the best interests of the child**, unless the termination is due to the emancipation or adoption of the child. **The juvenile court having jurisdiction over the guardianship shall receive notice from the court in which the petition is filed within five calendar days of the filing.** Prior to the hearing on a petition to terminate legal guardianship pursuant to this subdivision, the court shall order the county department of social services or welfare department **having jurisdiction or jointly with the county department where the guardian and child currently reside** to prepare a report, for the court's consideration, that shall include an evaluation of whether the child could safely remain in, or be returned to, the legal guardian's home, without terminating the legal guardianship, if services were provided to the child or legal guardian. If applicable, the report shall also identify recommended family maintenance or reunification services to maintain the legal guardianship and set forth a plan for providing those services. If the petition to terminate legal guardianship is granted, **either** juvenile court may resume dependency jurisdiction over the child, and may order the county department of social services or welfare department to develop a new permanent plan, which shall be presented to the court within 60 days of the termination. If no dependency jurisdiction has attached, the social worker shall make any investigation he or she deems necessary to determine whether the child may be within the jurisdiction of the juvenile court, as provided in Section 328.

....

(d) If the child is in a placement other than the home of a legal guardian and jurisdiction has not been dismissed, the status of the child shall be reviewed at least every six months. The review of the status of a child for whom the court has ordered parental rights terminated and who has been ordered placed for

adoption shall be conducted by the court. The review of the status of a child for whom the court has not ordered parental rights terminated and who has not been ordered placed for adoption may be conducted by the court or an appropriate local agency. The court shall conduct the review under the following circumstances:

- (1) Upon the request of the child's parents or legal guardians.
- (2) Upon the request of the child.
- (3) It has been 12 months since a hearing held pursuant to Section 366.26 or an order that the child remain in long-term foster care pursuant to Section 366.21, 366.22, **366.25**, 366.26, or subdivision **(h)**.
- (4) It has been 12 months since a review was conducted by the court.

The court shall determine whether or not reasonable efforts to make and finalize a permanent placement for the child have been made.

(e) Except as provided in subdivision **(g)**, at the review held every six months pursuant to subdivision (d), the reviewing body shall inquire about the progress being made to provide a permanent home for the child, shall consider the safety of the child, and shall determine all of the following:

....

(4) The extent of the agency's compliance with the child welfare services case plan in making reasonable efforts **either** to return the child to **the** safe home *****of the parent or** to complete whatever steps are necessary to finalize the permanent placement of the child. **If the reviewing body determines that a second period of reunification services is in the child's best interests, and that there is a significant likelihood of the child's return to a safe home due to changed circumstances of the parent, pursuant to subdivision (f), the specific reunification services required to effect the child's return to a safe home shall be described.**

....

(f) Unless their parental rights have been permanently terminated, the parent or parents of the child are entitled to receive notice of, and participate in, those hearings. It shall be presumed that continued care is in the best interests of the child, unless the parent or parents prove, by a preponderance of the evidence, that further efforts at reunification are the best alternative for the child. In those cases, the court may order that further reunification services to return the child to a safe home environment be provided to the parent or parents *****up to a period ***of six months, and family maintenance services, as needed for an additional six months in order to return the child to a safe home environment.**

(g) At the review conducted by the court and held at least every six months, regarding a child for whom the court has ordered parental rights terminated and who has been ordered placed for adoption, the county welfare department shall prepare and present to the court a report describing the following:

....

(h) At the review held pursuant to subdivision (d) for a child in long-term foster care, the court shall consider all permanency planning options for the child including whether the child should be returned to the home of the parent, placed for adoption, or appointed a legal guardian, or, if compelling reasons exist for finding that none of the foregoing options are in the best interest of the child, whether the child should be placed in another planned permanent living arrangement. The court shall order that a hearing be held pursuant to Section 366.26, unless it determines by clear and convincing evidence that there is a compelling reason for determining that a hearing held pursuant to Section 366.26 is not in the best interest of the child because the child is being returned to the home of the parent, the child is not a proper subject for adoption, or no one is willing to accept legal guardianship. If the licensed county adoption agency, or the department when it is acting as an adoption agency in counties that are not served by a county adoption agency, has determined it is unlikely that the child will be adopted or one of the conditions described in paragraph (1) of subdivision (c) of Section 366.26 applies, that fact shall constitute a compelling reason for purposes of this subdivision. Only upon that determination may the court order that the child remain in foster care, without holding a hearing pursuant to Section 366.26.

(i) If, as authorized by subdivision (h), the court orders a hearing pursuant to Section 366.26, the court shall direct the agency supervising the child and the licensed county adoption agency, or the State Department of Social Services when it is acting as an adoption agency in counties that are not served by a county adoption agency, to prepare an assessment as provided for in subdivision (i) of Section 366.21 or subdivision (b) of Section 366.22. A hearing held pursuant to Section 366.26 shall be held no later than 120 days from the date of the 12-month review at which it is ordered, and at that hearing the court shall determine whether adoption, legal guardianship, or long-term foster care is the most appropriate plan for the child.

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

(k) The reviews conducted pursuant to subdivision (a) or (d) may be conducted earlier than every six months if the court determines that an earlier review is in the best interests of the child or as court rules prescribe.

SEC. 8. Section 366.35 of the Welfare and Institutions Code is amended to read:

366.35. (a) The implementation and operation of the amendments to subparagraph (B) of paragraph (1) of subdivision (a) of Section 366, subdivision (g) of Section 366.1, subdivisions (c) and (g) of Section 366.21, subdivision (a) of Section 366.22, subdivision (a) of Section 366.25, paragraph (3) of, and subparagraph (A) of paragraph (4) of, subdivision (c) of Section 366.26, paragraphs (2) and (3) of subdivision (e) of Section 366.3, and subdivision (i) of Section 16501.1 enacted at the 2005-06 Regular Session shall be phased in, consistent with the child's best interests, as follows:

....

SEC. 9. Section 16508.1 of the Welfare and Institutions Code is amended to read:

16508.1. (a) For every child who is in foster care, or who enters foster care, on or after January 1, 1999, and has been in foster care for 15 of the most recent 22 months, the social worker shall submit to the court a recommendation that the court set a hearing pursuant to Section 366.26 for the purpose of terminating parental rights. The social worker shall concurrently initiate and describe a plan to identify, recruit, process and approve a qualified family for adoption of the child.

(b) The social worker is not required to submit the recommendation as described in subdivision (a) if any of the following applies:

(1) The case plan for the child has documented a compelling reason or reasons why it is unlikely that the child will be adopted, as determined by the department when it is acting as an adoption agency or by the licensed adoption agency, and therefore termination of parental rights would not be in the best interest of the child or that one of the conditions set forth in paragraph (1) of subdivision (c) of Section 366.26 applies.

(2) A hearing under Section 366.26 is already set.

(3) The court has found at the previous hearing under Section 366.21 that there is a substantial probability that the child will be returned to the child's home within the extended period of time permitted.

(4) The court has found at the previous hearing under Section 366.21 that reasonable reunification services have not been offered or provided.

(5) The court has found at each and every hearing at which the court was required to consider reasonable efforts or services that reasonable efforts were not made or that reasonable services were not offered or provided.

(6) The incarceration or institutionalization of the parent or parents, or the court-ordered participation of the parent or parents in a residential substance abuse treatment program, constitutes a significant factor in the child's placement in foster care for a period of 15 of the most recent 22 months, and termination of parental rights is not in the child's best interests, considering factors such as the age of the child, the degree of parent and child bonding, the length of the sentence, and the nature of the treatment and the nature of the crime or illness.

....

[FN1] So in enrolled bill.

CHAPTER 483
A.B. No. 2096
CHILDREN AND MINORS--FOSTER CARE--EXTRACURRICULAR ACTIVITIES

SECTION 1. Section 362.05 of the Welfare and Institutions Code is amended to read:

362.05. (a) Every child adjudged a dependent child of the juvenile court shall be entitled to participate in age-appropriate extracurricular, enrichment, and social activities. No state or local regulation or policy may prevent, or create barriers to, participation in those activities. Each state and local entity shall ensure that private agencies that provide foster care services to dependent children have policies consistent with this section and that those agencies promote and protect the ability of dependent children to participate in age-appropriate extracurricular, enrichment, and social activities. *****A group home administrator, a facility manager, or his or her responsible designee, and a caregiver**, as defined in paragraph (1) of subdivision (a) of Section 362.04, shall use a reasonable and prudent parent standard, as defined in paragraph (2) of subdivision (a) of Section 362.04, in determining whether to give permission for a child residing in foster care to participate in extracurricular, enrichment, and social activities. ****A group home administrator, a facility manager, or his or her responsible designee, and a caregiver** shall take reasonable steps to determine the appropriateness of the activity in consideration of the child's age, maturity, and developmental level.

(b) A group home administrator or a facility manager, or his or her responsible designee, is encouraged to consult with social work or treatment staff members who are most familiar with the child at the group home in applying and using the reasonable and prudent parent standard.

CHAPTER 701
A.B. No. 2651
CHILDREN AND MINORS--FOSTER CARE--ADOPTION

SECTION 1. Section 8712 of the Family Code is amended to read:

8712. (a) The department or licensed adoption agency shall require each person filing an application for adoption to be fingerprinted and shall secure from an appropriate law enforcement agency any criminal record of that person to determine whether the person has ever been convicted of a crime other than a minor traffic violation. The department or a licensed adoption agency may also secure the person's full criminal record, if any. Any **federal-level** criminal offender record requests to the Department of Justice shall be submitted with fingerprint images and related information required by the Department of Justice for the purposes of obtaining information as to the existence and content of a record of an out-of-state or federal conviction or arrest of a person or information regarding any out-of-state or federal crimes or arrests for which the Department of Justice establishes that the person is free on bail, or on his or her own recognizance pending trial or appeal. The Department of Justice shall forward to the Federal Bureau of Investigation any ***requests for federal summary criminal history information received pursuant to this section. The Department of Justice shall review the information returned from the Federal Bureau of Investigation and shall compile and disseminate a response to the department or a licensed adoption agency.

(b) **Notwithstanding subdivision (c),** the criminal record, if any, shall be taken into consideration when evaluating the prospective adoptive parent, and an assessment of the effects of any criminal history on the ability of the prospective adoptive parent to provide adequate and proper care and guidance to the child shall be included in the report to the court.

(c)(1) Under no circumstances shall the department or a licensed adoption agency give final approval for an adoptive placement in any home where the prospective adoptive parent or any adult living in the prospective adoptive home has either of the following:

(A) A felony conviction for child abuse or neglect, spousal abuse, crimes against a child, including child pornography, or for a crime involving violence, including rape, sexual assault, or homicide, but not including other physical assault and battery. For purposes of this subdivision, crimes involving violence means those violent crimes contained in clause (i) of subparagraph (A), and subparagraph (B), of paragraph (1) of subdivision (g) of Section 1522 of the Health and Safety Code.

(B) A felony conviction that occurred within the last five years for physical assault, battery, or a drug- or alcohol-related offense.

(2) This subdivision shall become operative on October 1, 2008, and shall remain operative only to the extent that compliance with its provisions is required by federal law as a condition of receiving funding under Title IV-E of the federal Social Security Act (42 U.S.C. 670 and following).

(d) Any fee charged by a law enforcement agency for fingerprinting or for checking or obtaining the criminal record of the applicant shall be paid by the applicant. The department or licensed adoption agency may defer, waive, or reduce the fee when its payment would cause economic hardship to prospective adoptive parents detrimental to the welfare of the adopted child, when the child has been in the foster care of the prospective adoptive parents for at least one year, or if necessary for the placement of a special-needs child.

SEC. 2. Section 8811 of the Family Code is amended to read:

8811. (a) The department or delegated county adoption agency shall require each person filing an adoption petition to be fingerprinted and shall secure from an appropriate law enforcement agency any criminal record of that person to determine whether the person has ever been convicted of a crime other than a minor traffic violation. The department or delegated county adoption agency may also secure the person's full criminal record, if any. **Any federal-level criminal offender record requests to the Department of Justice shall be submitted with fingerprint images and related information required by the Department of Justice for the purposes of obtaining information as to the existence and content of a record of an out-of-state or federal conviction or arrest of a person or information regarding any out-of-state or federal crimes or arrests for which the Department of Justice establishes that the person is free on bail, or on his or her own recognizance pending trial or appeal. The Department of Justice shall forward to the Federal Bureau of Investigation any requests for federal summary criminal history information received pursuant to this section. The Department of Justice shall review the information returned from the Federal Bureau of**

Investigation and shall compile and disseminate a response to the department or delegated county adoption agency.

(b) **Notwithstanding subdivision (c),** the criminal record, if any, shall be taken into consideration when evaluating the prospective adoptive parent, and an assessment of the effects of any criminal history on the ability of the prospective adoptive parent to provide adequate and proper care and guidance to the child shall be included in the report to the court.

(c)(1) Under no circumstances shall the department or a delegated county adoption agency give final approval for an adoptive placement in any home where the prospective adoptive parent or any adult living in the prospective adoptive home has either of the following:

(A) A felony conviction for child abuse or neglect, spousal abuse, crimes against a child, including child pornography, or for a crime involving violence, including rape, sexual assault, or homicide, but not including other physical assault and battery. For purposes of this subdivision, crimes involving violence means those violent crimes contained in clause (i) of subparagraph (A), and subparagraph (B), of paragraph (1) of subdivision (g) of Section 1522 of the Health and Safety Code.

(B) A felony conviction that occurred within the last five years for physical assault, battery, or a drug- or alcohol-related offense.

(2) This subdivision shall become operative on October 1, 2008, and shall remain operative only to the extent that compliance with its provisions is required by federal law as a condition of receiving funding under Title IV-E of the federal Social Security Act (42 U.S.C. 670 and following).

(d) Any fee charged by a law enforcement agency for fingerprinting or for checking or obtaining the criminal record of the petitioner shall be paid by the petitioner. The department or delegated county adoption agency may defer, waive, or reduce the fee when its payment would cause economic hardship to the prospective adoptive parents detrimental to the welfare of the adopted child, when the child has been in the foster care of the prospective adoptive parents for at least one year, or if necessary for the placement of a special-needs child.

SEC. 3. Section 8908 of the Family Code is amended to read:

8908. (a) A licensed adoption agency shall require each person filing an application for adoption to be fingerprinted and shall secure from an appropriate law enforcement agency any criminal record of that person to determine whether the person has ever been convicted of a crime other than a minor traffic violation. The licensed adoption agency may also secure the person's full criminal record, if any. Any federal-level criminal offender record requests to the Department of Justice shall be submitted with fingerprint images and related information required by the Department of Justice for the purposes of obtaining information as to the existence and content of a record of an out-of-state or federal conviction or arrest of a person or information regarding any out-of-state or federal crimes or arrests for which the Department of Justice establishes that the person is free on bail, or on his or her own recognizance pending trial or appeal. The Department of Justice shall forward

to the Federal Bureau of Investigation any requests for federal summary criminal history information received pursuant to this section. The Department of Justice shall review the information returned from the Federal Bureau of Investigation and shall compile and disseminate a fitness determination to the licensed adoption agency.

(b) **Notwithstanding subdivision (c),** the criminal record, if any, shall be taken into consideration when evaluating the prospective adoptive parent, and an assessment of the effects of any criminal history on the ability of the prospective adoptive parent to provide adequate and proper care and guidance to the child shall be included in the report to the court.

(c)(1) Under no circumstances shall a licensed adoption agency give final approval for an adoptive placement in any home where the prospective adoptive parent or any adult living in the prospective adoptive home, has a felony conviction for either of the following:

(A) Any felony conviction for child abuse or neglect, spousal abuse, crimes against a child, including child pornography, or for a crime involving violence, including rape, sexual assault, or homicide, but not including other physical assault and battery. For purposes of this subdivision, crimes involving violence means those violent crimes contained in clause (i) of subparagraph (A), and subparagraph (B), of paragraph (1) of subdivision (g) of Section 1522 of the Health and Safety Code.

(B) A felony conviction that occurred within the last five years for physical assault, battery, or a drug- or alcohol-related offense.

(2) This subdivision shall become operative on October 1, 2008, and shall remain operative only to the extent that compliance with its provisions is required by federal law as a condition of receiving funding under Title IV-E of the federal Social Security Act (42 U.S.C. 670 and following).

(d) Any fee charged by a law enforcement agency for fingerprinting or for checking or obtaining the criminal record of the applicant shall be paid by the applicant. The licensed adoption agency may defer, waive, or reduce the fee when its payment would cause economic hardship to the prospective adoptive parents detrimental to the welfare of the adopted child.

SEC. 4. Section 1522 of the Health and Safety Code is amended to read:

1522. The Legislature recognizes the need to generate timely and accurate positive fingerprint identification of applicants as a condition of issuing licenses, permits, or certificates of approval for persons to operate or provide direct care services in a community care facility, foster family home, or a certified family home of a licensed foster family agency. Therefore, the Legislature supports the use of the fingerprint live-scan technology, as identified in the long-range plan of the Department of Justice for fully automating the processing of fingerprints and other data by the year 1999, otherwise known as the California Crime Information Intelligence System (CAL-CII), to be used for applicant fingerprints. It is the intent of the Legislature in enacting this section to require the fingerprints of those individuals whose contact with community care clients may pose a risk to the clients' health and safety. An individual shall

be required to obtain either a criminal record clearance or a criminal record exemption from the State Department of Social Services before his or her initial presence in a community care facility.

....

(a)(4) The following shall apply to the criminal record information:

....

(D) If the State Department of Social Services finds after licensure that the licensee, or any other person specified in paragraph (1) of subdivision (b), has been convicted of a crime other than a minor traffic violation, the license may be revoked, unless the director grants an exemption pursuant to subdivision (g).

....

(G) Notwithstanding any other provision of law, the department is authorized to provide an individual with a copy of his or her **state-** or **federal-level** criminal offender record information search response as provided to that department by the Department of Justice if the department has denied a criminal background clearance based on this information and the individual makes a written request to the department for a copy specifying an address to which it is to be sent. The **state-** or **federal-level** criminal offender record information search response shall not be modified or altered from its form or content as provided by the Department of Justice and shall be provided to the address specified by the individual in *****his or her** written request. The department shall retain a copy of the individual's written request and the response and date provided.

(b)(2) The following persons are exempt from the requirements applicable under paragraph (1):

....

(iii) When clients are present in the room in which the **repair person** or contractor is working, a staff person who has a criminal record clearance or exemption is also present.

....

(3) In addition to the exemptions in paragraph (2), the following persons in foster family homes, certified family homes, and small family homes are exempt from the requirements applicable under paragraph (1):

....

(B) Parents of a foster child's **friend** when the foster child is visiting the friend's home and the friend, licensed or certified foster parent, or both are also present. However, the licensee, acting as a reasonable and prudent parent, may allow the parent of the foster child's **friend** to act as an appropriate short-term babysitter for the child without the friend being present.

....

(c)(1) Subsequent to initial licensure, any person specified in subdivision (b) ~~***~~ **who is** not exempted from fingerprinting shall ~~***~~ **obtain either a criminal record clearance or an exemption from disqualification pursuant to subdivision (g) from the State Department of Social Services prior** to employment, residence, or **initial** presence in ~~***~~ **the facility*****. **Any person specified in subdivision (b) who is not exempt from fingerprinting shall** be fingerprinted and **shall** sign a declaration under penalty of perjury regarding any prior criminal convictions. The licensee shall submit fingerprint images and related information to the Department of Justice and the Federal Bureau of Investigation, through the Department of Justice, for a **state-** and **federal-level** criminal offender record information search, or ~~***~~ comply with paragraph (1) of subdivision (h)~~***~~. These fingerprint images and related information shall be sent by electronic transmission in a manner approved by the State Department of Social Services and the Department of Justice for the purpose of obtaining a permanent set of fingerprints, and shall be submitted to the Department of Justice by the licensee. A licensee's failure to ~~***~~ **prohibit the employment, residence, or initial presence of any person specified in subdivision (b) who is not exempt from fingerprinting and who has not received either a criminal record clearance or an exemption from disqualification pursuant to subdivision (g)** or to comply with paragraph (1) of subdivision (h), as required in this section, shall result in the citation of a deficiency and the immediate assessment of civil penalties in the amount of one hundred dollars (\$100) per violation per day for a maximum of five days, unless the violation is a second or subsequent violation within a 12-month period in which case the civil penalties shall be in the amount of one hundred dollars (\$100) per violation for a maximum of 30 days, and shall be grounds for disciplining the licensee pursuant to Section 1550. The department may assess civil penalties for continued violations as permitted by Section 1548. The fingerprint images and related information shall then be submitted to the Department of Justice for processing. Upon request of the licensee, who shall enclose a self-addressed stamped postcard for this purpose, the Department of Justice shall verify receipt of the fingerprints.

(2) Within 14 calendar days of the receipt of the fingerprint images, the Department of Justice shall notify the State Department of Social Services of the criminal record information, as provided for in subdivision (a). If no criminal record information has been recorded, the Department of Justice shall provide the licensee and the State Department of Social Services with a statement of that fact within 14 calendar days of receipt of the fingerprint images. Documentation of the individual's clearance or exemption **from disqualification** shall be maintained by the licensee and be available for inspection. If new fingerprint images are required for processing, the Department of Justice shall, within 14 calendar days from the date of receipt of the fingerprints, notify the licensee that the fingerprints were illegible, the Department of Justice shall notify the State Department of Social Services, as required by Section 1522.04, and shall also notify the licensee by mail, within 14 days of electronic transmission of the fingerprints to the Department of Justice, if the person has no criminal history recorded. A violation of the regulations adopted pursuant to Section 1522.04 shall result in the citation of a deficiency and an immediate assessment of civil penalties in the amount of one hundred dollars (\$100) per violation per day for a maximum of five days, unless the violation is a second or subsequent violation within a 12-month period in which case the civil penalties shall be in the amount of one hundred dollars (\$100) per violation for a maximum of 30 days, and shall be grounds for disciplining the licensee pursuant to Section 1550. The department may assess civil penalties for continued violations as permitted by Section 1548.

(3) Except for persons specified in ***subdivision (b) **who are exempt from fingerprinting**, the licensee shall endeavor to ascertain the previous employment history of persons required to be fingerprinted***. If it is determined by the State Department of Social Services, on the basis of the fingerprint images and related information submitted to the Department of Justice, that **subsequent to obtaining a criminal record clearance or exemption from disqualification pursuant to subdivision (g)**, the person has been convicted of, or is awaiting trial for, a sex offense against a minor, or has been convicted for an offense specified in Section 243.4, 273a, 273d, 273g, or 368 of the Penal Code, or a felony, the State Department of Social Services shall notify the licensee to act immediately to terminate the person's employment, remove the person from the community care facility, or bar the person from entering the community care facility. The State Department of Social Services may subsequently grant an exemption **from disqualification** pursuant to subdivision (g). If the conviction or arrest was for another crime, except a minor traffic violation, the licensee shall, upon notification by the State Department of Social Services, act immediately to either (A) terminate the person's employment, remove the person from the community care facility, or bar the person from entering the community care facility; or (B) seek an exemption **from disqualification** pursuant to subdivision (g). The State Department of Social Services shall determine if the person shall be allowed to remain in the facility until a decision on the exemption **from disqualification** is rendered. A licensee's failure to comply with the department's prohibition of employment, contact with clients, or presence in the facility as required by this paragraph **shall result in a citation of a deficiency and an immediate assessment of civil penalties in the amount of one hundred dollars (\$100) per violation per day and** shall be grounds for disciplining the licensee pursuant to Section 1550.

(4) The department may issue an exemption **from disqualification** on its own motion pursuant to subdivision (g) if the person's criminal history indicates that the person is of good character based on the age, seriousness, and frequency of the conviction or convictions. The department, in consultation with interested parties, shall develop regulations to establish the criteria to grant an exemption **from disqualification** pursuant to this paragraph.

(5) Concurrently with notifying the licensee pursuant to paragraph (3), the department shall notify the affected individual of his or her right to seek an exemption **from disqualification** pursuant to subdivision (g). The individual may seek an exemption **from disqualification** only if the licensee terminates the person's employment or removes the person from the facility after receiving notice from the department pursuant to paragraph (3).

(d)(1) Before issuing a license ***or certificate of approval to any person or persons to operate ***a foster family home or certified family home as described in Section 1506, the State Department of Social Services or other approving authority shall secure *****California and Federal Bureau of Investigation criminal history information** to determine whether the applicant or any person specified in subdivision (b) **who is not exempt from fingerprinting** has ever been convicted of a crime other than a minor traffic violation or arrested for any crime specified in subdivision (c) of Section 290 of the Penal Code, for violating Section 245 or 273.5, subdivision (b) of Section 273a or, prior to January 1, 1994, paragraph (2) of Section 273a of the Penal Code, or for any crime for which the department cannot grant an exemption if the person was convicted and the person has not been exonerated. **The State Department of Social Services or other approving authority shall not issue a license or certificate of approval to any foster family home or certified family home applicant who has not**

obtained both a California and Federal Bureau of Investigation criminal record clearance or exemption from disqualification pursuant to subdivision (g).

(2) The criminal history information shall include the full criminal record, if any, of those persons.

(3) Neither the Department of Justice nor the State Department of Social Services may charge a fee for the fingerprinting of an applicant for a license, special permit, or certificate of approval described in this subdivision. The record, if any, shall be taken into consideration when evaluating a prospective applicant.

(4) The following shall apply to the criminal record information:

(A) If the applicant or other persons specified in subdivision (b) **who are not exempt from fingerprinting** have convictions that would make the applicant's home unfit as a foster family home or a certified family home, the license, special permit, or certificate of approval shall be denied.

(B) If the State Department of Social Services finds that the applicant, or any person specified in subdivision (b) **who is not exempt from fingerprinting** is awaiting trial for a crime other than a minor traffic violation, the State Department of Social Services or other approving authority may cease processing the application until the conclusion of the trial.

(C) For the purposes of this subdivision, a criminal record clearance provided under Section 8712 of the Family Code may be used by the department or other approving agency.

(D) To the **same** extent required **for** federal **funding**, an applicant for a foster family home license or for certification as a family home, and any other person specified in subdivision (b) *****who is not exempted from fingerprinting** shall submit a set of fingerprint images and related information to the Department of Justice and the Federal Bureau of Investigation, through the Department of Justice, for a **state-** and **federal-level** criminal offender record information search, in addition to the criminal records search required by subdivision (a).

(5) Any person specified in this subdivision shall, as a part of the application, be fingerprinted and sign a declaration under penalty of perjury regarding any prior criminal convictions or arrests for any crime against a child, spousal or cohabitant abuse or, any crime for which the department cannot grant an exemption if the person was convicted and shall submit these fingerprints to the licensing agency or other approving authority.

(6)(A) *****Subsequent to initial licensure or certification, any person** specified in subdivision (b) *****who is not exempt from fingerprinting shall obtain both a California and Federal Bureau of Investigation criminal record clearance, or an exemption from disqualification pursuant to subdivision (g), prior to employment, residence, or initial presence in the foster family or certified family home.** A foster family home licensee or foster family agency shall submit *****fingerprint images and related information of persons specified in subdivision (b) who are not exempt from fingerprinting** to the Department of Justice and the Federal Bureau of Investigation, through the Department of Justice, for a **state-** and **federal-level** criminal offender record information search, or to comply with paragraph (1) of subdivision *****(h). A foster family home licensee's or a foster family**

agency's failure to either prohibit the employment, residence, or initial presence ***of any person specified in subdivision (b) who is not exempt from fingerprinting and who has not received either a criminal record clearance or an exemption from disqualification pursuant to subdivision (g), or comply with paragraph (1) of subdivision (h), as required in this section, shall result in a citation of a deficiency, and the immediate civil penalties of one hundred dollars (\$100) per violation per day for a maximum of five days, unless the violation is a second or subsequent violation within a 12-month period in which case the civil penalties shall be in the amount of one hundred dollars (\$100) per violation for a maximum of 30 days, and shall be grounds for disciplining the licensee pursuant to Section 1550. A violation of the regulation adopted pursuant to Section 1522.04 shall result in the citation of a deficiency and an immediate assessment of civil penalties in the amount of one hundred dollars (\$100) per violation per day for a maximum of five days, unless the violation is a second or subsequent violation within a 12-month period in which case the civil penalties shall be in the amount of one hundred dollars (\$100) per violation for a maximum of 30 days, and shall be grounds for disciplining the foster family home licensee or foster family agency pursuant to Section 1550. ***The State Department of Social Services may assess penalties for continued violations, as permitted by Section 1548. The fingerprint images shall then be submitted to the Department of Justice for processing.

....

(7) If the State Department of Social Services finds that the applicant, or any other person specified in subdivision (b) who is not exempt from fingerprinting, has been convicted of a crime other than a minor traffic violation, the application shall be denied, unless the director grants an exemption from disqualification pursuant to subdivision (g).

(8) If the State Department of Social Services finds after licensure or the granting of the certificate of approval that the licensee, certified foster parent, or any other person specified in ***subdivision (b) who is not exempt from fingerprinting, has been convicted of a crime other than a minor traffic violation, the license or certificate of approval may be revoked by the department or the foster family agency, whichever is applicable, unless the director grants an exemption from disqualification pursuant to subdivision (g). A licensee's failure to comply with the department's prohibition of employment, contact with clients, or presence in the facility as required by paragraph (3) of subdivision (c) shall be grounds for disciplining the licensee pursuant to Section 1550.

....

(g)(1) After review of the record, the director may grant an exemption from disqualification for a license or special permit as specified in ***paragraph (4) of subdivision (a), or for a license, special permit, or certificate of approval as specified in paragraphs (4)***, (7), and (8) of subdivision (d), or for employment, residence, or presence in a community care facility as specified in paragraphs (3), (4), and (5) of subdivision (c), if the director has substantial and convincing evidence to support a reasonable belief that the applicant and the person convicted of the crime, if other than the applicant, are of good character as to justify issuance of the license or special permit or granting an exemption for purposes of subdivision (c). Except as otherwise provided in this subdivision, an exemption shall not be granted pursuant to this subdivision if the conviction was for any of the following offenses:

(A)(i) An offense specified in Section 220, 243.4, or 264.1, subdivision (a) of Section 273a or, prior to January 1, 1994, paragraph (1) of Section 273a, Section 273d, 288, or 289, subdivision (c) of Section 290, or Section 368 of the Penal Code, or was a conviction of another crime against an individual specified in subdivision (c) of Section 667.5 of the Penal Code.

(ii) Notwithstanding clause (i), the director may grant an exemption regarding the conviction for an offense described in paragraph (1), (2), (7), or (8) of subdivision (c) of Section 667.5 of the Penal Code, if the employee or prospective employee has been rehabilitated as provided in Section 4852.03 of the Penal Code, has maintained the conduct required in Section 4852.05 of the Penal Code for at least 10 years, and has the recommendation of the district attorney representing the employee's county of residence, or if the employee or prospective employee has received a certificate of rehabilitation pursuant to Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3 of the Penal Code. This clause shall not apply to foster care providers, including relative caregivers, nonrelated extended family members, or any other person specified in subdivision (b), in those homes where the individual has been convicted of an offense described in paragraph (1) of subdivision (c) of Section 667.5 of the Penal Code.

(B) A felony offense specified in Section 729 of the Business and Professions Code or Section 206 or 215, subdivision (a) of Section 347, subdivision (b) of Section 417, or subdivision (a) of Section 451, of the Penal Code.

(C) Under no circumstances shall an exemption be granted pursuant to this subdivision to any foster care provider applicant if that applicant or any other person specified in subdivision (b) in those homes, has a felony conviction for either of the following offenses:

(i) A felony conviction for child abuse or neglect, spousal abuse, crimes against a child, including child pornography, or for a crime involving violence, including rape, sexual assault, or homicide, but not including other physical assault and battery. For purposes of this subparagraph, a crime involving violence means any violent crime specified in clause (i) of subparagraph (A), or subparagraph (B).

(ii) A felony conviction, within the last five years, for physical assault, battery, or a drug-or alcohol-related offense.

(iii) This subparagraph shall not apply to licenses or approvals wherein a caregiver was granted an exemption to a criminal conviction described in clause (i) or (ii) before October 1, 2008.

(iv) This subparagraph shall become operative on October 1, 2008, and shall remain operative only to the extent that compliance with its provisions is required by federal law as a condition of receiving funding under Title IV-E of the federal Social Security Act (42 U.S.C. 670 and following).

....

(h)(2) The State Department of Social Services shall hold criminal record clearances in its active files for a minimum of **three** years after an employee is no longer employed at a licensed facility in order for the criminal record clearance to be transferred.

SEC. 5. Section 1522.1 of the Health and Safety Code is amended to read:

1522.1. (a) Prior to granting a license to, or otherwise approving, any individual to care for **or reside with** children, the department shall check the Child Abuse Central Index pursuant to paragraph (4) of subdivision (b) of Section 11170 of the Penal Code. The Department of Justice shall maintain and continually update an index of reports of child abuse by providers and shall inform the department of subsequent reports received from the Child Abuse Central Index pursuant to Section 11170 of the Penal Code and the criminal history. The department shall investigate any reports received from the Child Abuse Central Index. The investigation shall include, but not be limited to, the review of the investigation report and file prepared by the child protective agency which investigated the child abuse report. The department shall not deny a license based upon a report from the Child Abuse Central Index unless child abuse **or severe neglect** is substantiated.

(b) For any application received on or after January 1, 2008, if any prospective licensed or certified foster parent, or adoptive parent, or any person *****18 years of age or older** residing in their household, has lived in another state in the preceding five years, the licensing agency or licensed adoption agency shall check that state's child abuse and neglect registry, **in addition to checking the Child Abuse Central Index as provided for in subdivision (a)**. The department, in consultation with the County Welfare Directors Association, shall develop and promulgate the process and criteria to be used to review and consider other states' findings of child abuse or neglect.

(c) If any person in the household is 18 years of age or older and has lived in another state in the preceding five years, the department or its designated representative shall check the other state's child abuse and neglect registry to the **same** extent required **for** federal *****funding, in addition to checking the Child Abuse Central Index as provided for in subdivision (a)**, prior to granting a license to, or otherwise approving, any foster family home, certified family home, or person for whom an adoption home study is conducted or who has filed to adopt.

SEC. 6. Section 1524 of the Health and Safety Code is amended to read:

1524. A license shall be forfeited by operation of law when one of the following occurs:

....

(c)(1) The licensee moves a facility from one location to another. The department shall develop regulations to ensure that the facilities are not charged a full licensing fee and do not have to complete the entire application process when applying for a license for the new location.

(2) This subdivision shall not apply to a licensed foster family home, a home certified by a licensed foster family agency, or a home approved pursuant to Sections 309, 361.4, and 361.45 of the Welfare and Institutions Code. When a foster family home licensee, certified home parent, or a person approved to care for children pursuant to Sections 309, 361.4, and 361.45 of the Welfare and Institutions Code moves to a new location, the existing license, certification, or approval may be transferred to the new location. All caregivers to whom this paragraph applies shall be required to meet all applicable licensing laws and regulations at the new location.

....

SEC. 7. Section 1550 of the Health and Safety Code is amended to read:

1550. The department may deny an application for, or suspend or revoke, any license, or any administrator certificate, issued under this chapter upon any of the following grounds and in the manner provided in this chapter, **or may deny a transfer of a license pursuant to paragraph (2) of subdivision (b) of Section 1524 for any of the following grounds:**

- (a) Violation by the licensee or holder of a special permit of this chapter or of the rules and regulations promulgated under this chapter.
- (b) Aiding, abetting, or permitting the violation of this chapter or of the rules and regulations promulgated under this chapter.
- (c) Conduct which is inimical to the health, morals, welfare, or safety of either an individual in, or receiving services from, the facility or the people of the State of California.
- (d) The conviction of a licensee, or other person mentioned in Section 1522, at any time before or during licensure, of a crime as defined in Section 1522.
- (e) The licensee of any facility or the person providing direct care or supervision knowingly allows any child to have illegal drugs or alcohol.
- (f) Engaging in acts of financial malfeasance concerning the operation of a facility, including, but not limited to, improper use or embezzlement of client moneys and property or fraudulent appropriation for personal gain of facility moneys and property, or willful or negligent failure to provide services.

SEC. 8. Section 1551 of the Health and Safety Code is amended to read:

1551. (a) Proceedings for the suspension, revocation, or denial of a license, registration, special permit, or any administrator certificate under this chapter, **or denial of transfer of a license pursuant to paragraph (2) of subdivision (c) of Section 1524,** shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the ^{*}department shall have all the powers granted by those provisions. In the event of conflict between this chapter and the Government Code, the Government Code shall prevail.

....

SEC. 9. Section 11167.5 of the Penal Code is amended to read:

11167.5.

....

(b) Reports of suspected child abuse or neglect and information contained therein may be disclosed only to the following:

....

(12) Out-of-state law enforcement agencies conducting an investigation of child abuse or neglect only when an agency makes the request for reports of suspected child abuse or neglect in writing and on official letterhead, or as designated by the Department of Justice, identifying the suspected abuser or victim by name and date of birth or approximate age. The request shall be signed by the department supervisor of the requesting law enforcement agency. The written request shall cite the out-of-state statute or interstate compact provision that requires that the information contained within these reports is to be disclosed only to law enforcement, prosecutorial entities, or multidisciplinary investigative teams, and shall cite the ***safeguards in place to prevent unlawful disclosure provided by the requesting state or the applicable interstate compact provision.***

(13) Out-of-state agencies responsible for approving prospective foster or adoptive parents ***for placement of a child only when the agency makes the request ***in compliance with the Adam Walsh Child Protection and Safety Act of 2006 (Public Law 109-248). The request shall ***also cite the safeguards in place to prevent unlawful disclosure provided by the requesting ***state or the applicable interstate compact provision ***and indicate that the requesting state shall maintain continual compliance with the requirement in paragraph (20) of subdivision (a) of Section 671 of Title 42 of the United States Code that requires the state have in place safeguards to prevent the unauthorized disclosure of information in any child abuse and neglect registry maintained by the state and prevent the information from being used for a purpose other than the conducting of background checks in foster or adoptive placement cases***.

....

SEC. 10.2. Section 11170 of the Penal Code is amended to read:

11170.

....

(b)(7) The department shall make available to investigative agencies or probation officers, or court investigators acting pursuant to Section 1513 of the Probate Code, responsible for placing children or assessing the possible placement of children pursuant to Article 6 (commencing with Section 300), Article 7 (commencing with Section 305), Article 10 (commencing with Section 360), or Article 14 (commencing with Section 601) of Chapter 2 of Part 1 of Division 2 of the Welfare and Institutions Code, Article 2 (commencing with Section 1510) or Article 3 (commencing with Section 1540) of Chapter 1 of Part 2 of Division 4 of the Probate Code, information regarding a known or suspected child abuser contained in the index concerning any adult residing in the home where the child may be placed, when this information is requested for purposes of ensuring that the placement is in the best interest of the child. Upon receipt of relevant information concerning child abuse or neglect investigation reports contained in the index from the Department of Justice pursuant to this subdivision, the agency or court

investigator shall notify, in writing, the person listed in the Child Abuse Central Index that he or she is in the index. The notification shall include the name of the reporting agency and the date of the report.

(8) The Department of Justice shall make available to a government agency conducting a background investigation pursuant to Section 1031 of the Government Code of an applicant seeking employment as a peace officer, as defined in Section 830, information regarding a known or suspected child abuser maintained pursuant to this section concerning the applicant.

(9) The Department of Justice shall make available to a county child welfare agency or delegated county adoption agency, as defined in Section 8515 of the Family Code, conducting a background investigation, or a government agency conducting a background investigation on behalf of one of those agencies, information regarding a known or suspected child abuser maintained pursuant to this section and subdivision (a) of Section 11169 concerning any applicant seeking employment or volunteer status with the agency who, in the course of his or her employment or volunteer work, will have direct contact with children who are alleged to have been, are at risk of, or have suffered, abuse or neglect.

(10)(A) Persons or agencies, as specified in subdivision (b), if investigating a case of known or suspected child abuse or neglect, or the State Department of Social Services or any county licensing agency pursuant to paragraph (4), or a Court Appointed Special Advocate program conducting a background investigation for employment or volunteer candidates pursuant to paragraph (5), or an investigative agency, probation officer, or court investigator responsible for placing children or assessing the possible placement of children pursuant to paragraph (7), or a government agency conducting a background investigation of an applicant seeking employment as a peace officer pursuant to paragraph (8), **or a county child welfare agency or delegated county adoption agency conducting a background investigation of an applicant seeking employment or volunteer status who, in the course of his or her employment or volunteer work, will have direct contact which children who are alleged to have been, are at risk of, or have suffered, abuse or neglect, pursuant to paragraph (9)**, to whom disclosure of any information maintained pursuant to subdivision (a) is authorized, are responsible for obtaining the original investigative report from the reporting agency, and for drawing independent conclusions regarding the quality of the evidence disclosed, and its sufficiency for making decisions regarding investigation, prosecution, licensing, placement of a child, employment or volunteer positions with a CASA program, or employment as a peace officer.

(B) If Child Abuse Central Index information is requested by an agency for the temporary placement of a child in an emergency situation pursuant to Article 7 (commencing with Section 305) of Chapter 2 of Part 1 of Division 2 of the Welfare and Institutions Code, the department is exempt from the requirements of Section 1798.18 of the Civil Code if compliance would cause a delay in providing an expedited response to the agency's inquiry and if further delay in placement may be detrimental to the child.

(11)(A) Whenever information contained in the Department of Justice files is furnished as the result of an application for employment or licensing **or volunteer status** pursuant to paragraph (4), (5), ~~*(8)~~, **or (9)**, the Department of Justice may charge the person or entity making the request a fee. The fee shall not exceed the reasonable costs to the department of providing the information. The only increase shall

be at a rate not to exceed the legislatively approved cost-of-living adjustment for the department. In no case shall the fee exceed fifteen dollars (\$15).

....

(d) The department shall make available any information maintained pursuant to subdivision (a) to out-of-state law enforcement agencies conducting investigations of known or suspected child abuse or neglect only when an agency makes the request for information in writing and on official letterhead, or as designated by the department, identifying the suspected abuser or victim by name and date of birth or approximate age. The request shall be signed by the department supervisor of the requesting law enforcement agency. The written requests shall cite the out-of-state statute or interstate compact provision that requires that the information contained within these reports shall be disclosed only to law enforcement, prosecutorial entities, or multidisciplinary investigative teams, and shall cite the **§§ safeguards in place to prevent** unlawful disclosure of any confidential information provided by the requesting state or the applicable interstate compact provision. **§§§**

(e)(1) The department shall make available to an out-of-state agency, for purposes of approving a prospective foster or adoptive parent **§§§ in compliance with the Adam Walsh Child Protection and Safety Act of 2006 (Public Law 109-248)**, information regarding a known or suspected child abuser maintained pursuant to subdivision (a) concerning the prospective foster or adoptive parent **§§§**, and any other adult living in the home of the prospective foster or adoptive parent **§§§**. The department shall make that information available only when the out-of-state agency makes the request **§§§ indicating that continual compliance will be maintained with the requirement in paragraph (20) of subdivision (a) of Section 671 of Title 42 of the United States Code that requires the state to have in place safeguards to prevent the unauthorized disclosure of §§§ information §§§ in any child abuse and neglect registry maintained by the state and prevent the information §§§ from being used for a** purpose other than **the conducting of background checks in foster or §§§ adoption placement** cases **§§§**.

....

SEC. 11. Section 309 of the Welfare and Institutions Code is amended to read:

309.

....

(d)(3) **To the extent allowed by federal law, as a condition of receiving funding under Title IV-E of the federal Social Security Act (42 U.S.C. Sec. 670 et seq.),** if a relative or nonrelative extended family member meets all other conditions for approval, except for the receipt of the Federal Bureau of Investigation's criminal history information for the relative or nonrelative extended family member, and other adults in the home, as indicated, the county welfare department may approve the home and document that approval, if the relative or nonrelative extended family member, and each adult in the home, has signed and submitted a statement that he or she has never been convicted of a crime in the United States, other than a traffic infraction as defined in paragraph (1) of subdivision (a) of Section 42001 of the Vehicle Code. If, after the approval has been granted, the department determines that the

relative or nonrelative extended family member or other adult in the home has a criminal record, the approval may be terminated.

(4) If the criminal records check indicates that the person has been convicted of a crime for which the Director of Social Services cannot grant an exemption under Section 1522 of the Health and Safety Code, the child shall not be placed in the home. If the criminal records check indicates that the person has been convicted of a crime for which the Director of Social Services may grant an exemption under Section 1522 of the Health and Safety Code, the child shall not be placed in the home unless a criminal records exemption has been granted by the county based on substantial and convincing evidence to support a reasonable belief that the person with the criminal conviction is of such good character as to justify the placement and not present a risk of harm to the child.

SEC. 12. Section 361.4 of the Welfare and Institutions Code is amended to read:

361.4.

....

(b) Whenever a child may be placed in the home of a relative, or the home of any prospective guardian or other person who is not a licensed or certified foster parent, the court or county social worker placing the child shall cause a **state-level** criminal records check to be conducted by an appropriate **government** agency through the California Law Enforcement Telecommunications System (CLETS) pursuant to Section 16504.5. The criminal records check shall be conducted with regard to all persons over *****18 years of age** living in the home, and on any other person over *****18 years of age**, other than professionals providing professional services to the child, known to the placing entity who may have significant contact with the child, including any person who has a familial or intimate relationship with any person living in the home. A criminal records check may be conducted pursuant to this section on any person over *****14 years of age** living in the home who the county social worker believes may have a criminal record. Within 10 calendar days following the criminal records check conducted through the California Law Enforcement Telecommunications System, the social worker shall ensure that a fingerprint clearance check of the relative and any other person whose criminal record was obtained pursuant to this subdivision is initiated through the Department of Justice to ensure the accuracy of the criminal records check conducted through the California Law Enforcement Telecommunications System and shall review the results of any criminal records check to assess the safety of the home. The Department of Justice shall forward fingerprint requests for **federal-level** criminal history information to the Federal Bureau of Investigation pursuant to this section.

(c) Whenever a child may be placed in the home of a relative, or a prospective guardian or other person who is not a licensed or certified foster parent, the county social worker shall cause a check of the Child Abuse Central Index pursuant to subdivision (a) of Section 11170 of the Penal Code to be requested from the Department of Justice. The Child Abuse Central Index check shall be conducted on all persons over *****18 years of age** living in the home. For any application received on or after January 1, 2008, if any person in the household is 18 years of age or older and has lived in another state in the preceding five years, the county social worker shall check the other state's child abuse and neglect registry to the extent required by federal law.

(d)(1) If **the results of the California and federal** criminal records check indicates that the person has no criminal record, the county social worker and court may consider the home of the relative, prospective guardian, or other person who is not a licensed or certified foster parent for placement of a child.

(2) If the criminal records check indicates that the person has been convicted of a crime that ~~***~~**the Director of Social Services cannot grant an exemption for** under Section 1522 of the Health and Safety Code, the child may not be placed in the home~~***~~. **If the criminal records check indicates that the person has been convicted of a crime that the Director of Social Services may grant an exemption for under Section 1522 of the Health and Safety Code, the child may not be placed in the home** unless a criminal records exemption has been granted by the county, based on substantial and convincing evidence to support a reasonable belief that the person with the criminal conviction is of such good character as to justify the placement and not present a risk of harm to the child pursuant to paragraph (3).

....

SEC. 13. Section 16501.1 of the Welfare and Institutions Code is amended to read:

16501.1.

....

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

....

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

....

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

SEC. 16. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to secure necessary federal funding for the care of children in California, it is necessary for this act to take effect immediately.

1 Rule 4.551 amended effective January 1, 2009; adopted as rule 260 effective January 1, 1982; previously
2 renumbered as rule 4.500 effective January 1, 2001; previously amended and renumbered effective
3 January 1, 2002; previously amended effective January 1, 2004, and January 1, 2007.
4

5
6 **Rule 5.505. Juvenile dependency court performance measures**

7
8 **(a) Purpose**

9
10 The juvenile dependency court performance measures and related procedures set
11 forth in this rule are intended to:
12

- 13 (1) Protect abused and neglected children by assisting courts in promoting
14 children’s placement in safe and permanent homes, enhancing their well-being
15 and that of their families, and ensuring that all participants receive timely and
16 fair treatment;
17
18 (2) Assist trial courts in meeting the mandated timelines for dependency hearings,
19 securing due process for all litigants, and, in collaboration with the child
20 welfare agency, improving safety, permanency, and well-being outcomes for
21 children and families under the jurisdiction of the juvenile dependency court;
22 and
23
24 (3) Assist courts in making well-informed resource allocation decisions.
25

26 **(b) Performance measures**

27
28 Detailed definitions of the performance measures and descriptions of the methods
29 for producing the performance measures in accordance with (c)(2) and (3) are
30 contained in the Judicial Council–approved *Implementation Guide to Juvenile*
31 *Dependency Court Performance Measures.*
32

33 The juvenile dependency court performance measures are:
34

- 35 (1) Hearing timeliness:
36
37 (A) Percentage of children for whom the initial hearing is completed within
38 the statutory time frame following the filing of the initial petition;
39
40 (B) Percentage of children for whom the jurisdictional hearing is completed
41 within the statutory time frame following the initial hearing;
42

- 1 (C) Percentage of children for whom the disposition hearing is completed
2 within the statutory time frame following the finding of jurisdiction;
3
- 4 (D) Percentage of children for whom a 3-month or other interim review
5 hearing is held;
6
- 7 (E) Percentage of children for whom the 6-month review hearing is
8 completed within 6 months of the date the child entered foster care;
9
- 10 (F) Percentage of children for whom the 12-month permanency hearing is
11 completed within 12 months of the date the child entered foster care;
12
- 13 (G) Percentage of children for whom the 18-month review hearing is
14 completed within 18 months of the date of original protective custody;
15
- 16 (H) Percentage of children for whom the first section 366.26 hearing is
17 completed within 120 days of the termination of reunification services;
18
- 19 (I) Percentage of children whose postpermanency hearing is completed
20 within 6 months of the section 366.26 hearing or the last
21 postpermanency hearing;
22
- 23 (J) Percentage of children in long-term foster care whose subsequent section
24 366.26 hearing is completed within 12 months of the previous section
25 366.26 hearing;
26
- 27 (K) Percentage of children whose adoption is finalized within 180 days after
28 termination of parental rights;
29
- 30 (L) Median time from disposition or section 366.26 hearing to order
31 establishing guardianship;
32
- 33 (M) Percentage of children for whom the first and subsequent
34 postpermanency review hearings are completed within the statutory time
35 frame;
36
- 37 (N) Percentage of hearings delayed by reasons for delay and hearing type;
38
- 39 (O) Median time from filing of original petition to implementation of a
40 permanent plan by permanent plan type; and
41
- 42 (P) Median time from filing of original petition to termination of jurisdiction
43 by reason for termination of jurisdiction.

1
2 (2) Court procedures and due process:
3

4 (A) Percentage of cases in which all hearings are heard by one judicial
5 officer;
6

7 (B) Percentage of cases in which all parties and other statutorily entitled
8 individuals are served with a copy of the original petition;
9

10 (C) Percentage of hearings in which notice is given to all statutorily entitled
11 parties and individuals within the statutory time frame;
12

13 (D) Percentage of hearings in which child or parents are present if statutorily
14 entitled to be present;
15

16 (E) Percentage of hearings in which a judicial inquiry is made when a child
17 10 years of age or older is not present at hearing;
18

19 (F) Percentage of hearings in which other statutorily entitled individuals
20 who are involved in the case (e.g., CASA volunteers, caregivers, de facto
21 parents, others) are present;
22

23 (G) Percentage of cases in which legal counsel for parents, children, and the
24 child welfare agency are present at every hearing;
25

26 (H) Point at which children and parents are assigned legal counsel;
27

28 (I) Percentage of cases in which legal counsel for children or parents
29 changes;
30

31 (J) Percentage of cases in which no reunification services are ordered and
32 reasons;
33

34 (K) Percentage of cases for which youth have input into their case plans; and
35

36 (L) Cases in compliance with the requirements of the Indian Child Welfare
37 Act (ICWA).
38

39 (3) Child safety in the child welfare system:
40

41 (A) Percentage of children who are not victims of another substantiated
42 maltreatment allegation within 6 and 12 months after the maltreatment
43 incident that led to the filing of the initial petition; and

1
2 (B) For all children served in foster care during the year, percentage of
3 children who were not victims of substantiated maltreatment by a foster
4 parent or facility staff member.
5

6 (4) Child permanency:
7

8 (A) Percentage of children reunified in less than 12 months;
9

10 (B) Percentage of children who were reunified but reentered foster care
11 within 12 months;
12

13 (C) Percentage of children who were discharged from foster care to a
14 finalized adoption within 24 months;
15

16 (D) Percentage of children in foster care who were freed for adoption;
17

18 (E) Percentage of children in long-term foster care who were discharged to a
19 permanent home before their 18th birthdays;
20

21 (F) Of children discharged to emancipation or aging out of foster care,
22 percentage who were in foster care 3 years or longer;
23

24 (G) Percentage of children with multiple foster-care placements;
25

26 (5) Child and family well-being:
27

28 (A) Percentage of children 14 years of age or older with current transitional
29 independent living plans;
30

31 (B) Percentage of children for whom a section 391 termination of
32 jurisdiction hearing was held;
33

34 (C) Percentage of section 391 termination of jurisdiction hearings that did
35 not result in termination of jurisdiction and reasons jurisdiction did not
36 terminate;
37

38 (D) Percentage of youth present at section 391 termination of jurisdiction
39 hearing with judicial confirmation of receipt of all services and
40 documents mandated by section 391(b)(1-5);
41

42 (E) Percentage of children placed with all siblings who are also under court
43 jurisdiction, as appropriate;

- 1
2 (F) Percentage of children placed with at least one but not all siblings who
3 are also under court jurisdiction, as appropriate;
4
5 (G) For children who have siblings under court jurisdiction but are not
6 placed with all of them, percentage of cases in which sibling visitation is
7 not ordered and reasons;
8
9 (H) Percentage of cases in which visitation is not ordered for parents and
10 reasons;
11
12 (I) Number of visitation orders for adults other than parents and siblings,
13 (e.g., grandparents, other relatives, extended family members, others) as
14 appropriate;
15
16 (J) Number of cases in which the court has requested relative-finding efforts
17 from the child welfare agency;
18
19 (K) Percentage of children placed with relatives;
20
21 (L) For children 10 years of age or older and in foster care for at least 6
22 months, percentage for whom the court has inquired whether the social
23 worker has identified persons important to the child; and
24
25 (M) For children 10 years of age or older in foster care for at least 6 months,
26 percentage for whom the court has made orders to enable the child to
27 maintain relationships with persons important to that child.
28

29 **(c) Data collection**

- 30
31 (1) California's Court Case Management System (CCMS) family and juvenile
32 law module must be capable of collecting the data described in the
33 *Implementation Guide to Juvenile Dependency Court Performance Measures*
34 in order to calculate the performance measures and to produce performance
35 measure reports.
36
37 (2) Before implementation of the CCMS family and juvenile law module, each
38 local court must collect and submit to the AOC the subset of juvenile
39 dependency data described in (b) and further delineated in the *Implementation*
40 *Guide to Juvenile Dependency Court Performance Measures* that it is
41 reasonably capable of collecting and submitting with its existing court case
42 management system and resources.
43

1 (3) On implementation of the CCMS family and juvenile law module in a local
2 court, and as the necessary data elements become electronically available, the
3 local court must collect and submit to the AOC the juvenile dependency data
4 described in (b) and further delineated in the *Implementation Guide to Juvenile*
5 *Dependency Court Performance Measures*. For the purposes of this
6 subdivision, “implementation of the CCMS family and juvenile law module”
7 in a local court means that the CCMS family and juvenile law module has been
8 deployed in that court, is functioning, and has the ability to capture the
9 required data elements and that local court staff has been trained to use the
10 system.

11
12 **(d) Use of data and development of measures before CCMS implementation**

13 Before CCMS implementation, the AOC must:

- 14
15
16 (1) Establish a program to assist the local courts in collecting, preparing,
17 analyzing, and reporting the data required by this rule;
18
19 (2) Establish a procedure to assist the local courts in submitting the required data
20 to the AOC;
21
22 (3) Use the data submitted under (c)(2) to test and refine the detailed definitions
23 of the performance measures and descriptions of the methods for producing
24 the performance measures described in the *Implementation Guide to Juvenile*
25 *Dependency Court Performance Measures*;
26
27 (4) Consult with local courts about the accuracy of the data submitted under
28 (c)(2). After such consultation, use data to generate aggregate data reports on
29 performance measures, consistent with section 16543, while not disclosing
30 identifying information about children, parents, judicial officers, and other
31 individuals in the dependency system; and
32
33 (5) Assist the courts in using the data to achieve improved outcomes for children
34 and families in the dependency system, make systemic improvements, and
35 improve resource allocation decisions.

36
37 **(e) Use of data after CCMS implementation**

38
39 On implementation of CCMS, the AOC must:

- 40
41 (1) Use the data submitted under (c)(3) to conduct ongoing testing, refining, and
42 updating of the information in the *Implementation Guide to Juvenile*
43 *Dependency Court Performance Measures*;

1 (j) **Acceptability in the courts**

2
3 (1) In all actions for child or family support brought by or otherwise involving the
4 local child support agency under title IV-D of the Social Security Act, the
5 Department of Child Support Services' California Guideline Child Support
6 Calculator software program must be used by:

7
8 (A) Parties and attorneys to present support calculations to the court; and

9
10 (B) The court to prepare support calculations.

11
12 (2) In all non-title IV-D proceedings, the All-courts may use and must permit
13 parties or attorneys to use any software certified by the Judicial Council under
14 this rule.

15
16 *(Subd (j) amended effective January 1, 2009; adopted as subd (k) effective January 1, 2000;*
17 *previously relettered effective January 1, 2003.)*

18
19 *Rule 5.275 amended effective January 1, 2009; adopted as rule 1258 effective December 1, 1993;*
20 *previously amended effective January 1, 2000, and January 1, 2007; previously amended and*
21 *renumbered effective January 1, 2003.*

22
23 **Rule 5.552. Confidentiality of records (§§ 827, 828)**

24
25 (a) ***

26
27 (b) ~~Inspection~~ **General provisions**

28
29 (1) ~~Only those persons specified in sections 827 and 828 may inspect, but may not~~
30 ~~copy, juvenile court records without authorization from the court. The~~
31 ~~following individuals and entities may inspect, receive, and copy the juvenile~~
32 ~~case file without an order of the juvenile court:~~

33
34 (A) ~~Counsel who are entitled to inspect juvenile court records include any~~
35 ~~trial court or appellate attorney representing a party in the juvenile court~~
36 ~~proceeding. Court personnel;~~

37
38 (B) The district attorney, a city attorney, or a city prosecutor authorized to
39 prosecute criminal or juvenile cases under the law;

40
41 (C) The child who is the subject of the proceeding;

42
43 (D) The child's parents;
44

- 1 (E) The child’s guardians;
2
3 (F) The attorneys for the parties, including any trial court or appellate
4 attorney representing a party in the juvenile proceeding or related
5 appellate proceeding;
6
7 (G) Judges, referees, other hearing officers, probation officers, and law
8 enforcement officers who are actively participating in criminal or
9 juvenile proceedings involving the child;
10
11 (H) The county counsel, city attorney, or any other attorney representing the
12 petitioning agency in a dependency action;
13
14 (I) Members of child protective agencies as defined in Penal Code section
15 11165.9; and
16
17 (J) The California Department of Social Services in order to carry out its
18 duty to oversee and monitor county child welfare agencies, children in
19 foster care or receiving foster-care assistance, and out- of-state
20 placements.
21
22 (2) The following individuals and entities may inspect the juvenile case file
23 without a court order and may receive a copy of the juvenile case file pursuant
24 to a court order:
25
26 (A) All persons and entities listed in Welfare and Institutions Code sections
27 827 and 828 who are not listed in (b)(1) above; and
28
29 (B) An Indian child’s tribal representative if the tribe has intervened in the
30 child’s case.
31
32 ~~(B)~~(3) Authorization for any other person or entity to inspect, obtain, or copy
33 juvenile ~~court records~~ case files may be ordered only by the juvenile court
34 presiding judge or a judicial officer of the juvenile court.
35
36 ~~(C)~~ ~~The child, the child’s attorney, the child’s parents and their attorneys, the~~
37 ~~child’s social worker, the county counsel, and a child’s identified Indian~~
38 ~~tribe, can obtain a copy of a juvenile case file document that was~~
39 ~~previously disseminated during the proceedings, while the case is~~
40 ~~pending.~~
41
42 ~~(D)~~(4) Juvenile ~~court records~~ case files may not be obtained or inspected by
43 civil or criminal subpoena.

1
2 (E) ~~In determining whether to authorize inspection or release of juvenile~~
3 ~~court records, in whole or in part, the court must balance the interests of~~
4 ~~the child and other parties to the juvenile court proceedings, the interests~~
5 ~~of the petitioner, and the interests of the public.~~

6
7 (F) ~~The court may permit disclosure of, discovery of, or access to juvenile~~
8 ~~court records or proceedings only insofar as is necessary, and only if~~
9 ~~there is a reasonable likelihood that the records in question will disclose~~
10 ~~information or evidence of substantial relevance to the pending~~
11 ~~litigation, investigation, or prosecution.~~

12
13 (G) ~~The court may issue protective orders to accompany authorized~~
14 ~~disclosure, discovery, or access.~~

15
16 (2)(5) When a petition is sustained for any offense listed in section 676, the
17 charging petition, the minutes of the proceeding, and the orders of
18 adjudication and disposition that are contained in the ~~court~~ juvenile case file
19 must be available for public inspection, unless the court has prohibited
20 disclosure of those records under that section.

21
22 *(Subd (b) amended effective January 1, 2009; previously amended effective January 1, 2004, and*
23 *January 1, 2007.)*

24
25 (c) ***

26
27 (d) **Notice of petition for disclosure**

28
29 (1) At least ~~five~~ 10 days before the petition is submitted to the court, the petitioner
30 must personally or by first-class mail serve, or attempt to serve, a copy of the
31 ~~petition~~ *Request for Disclosure of Juvenile Case File* (form JV-570), *Notice of*
32 *Request for Disclosure of Juvenile Case File* (form JV-571), and a blank copy
33 of *Objection to Release of Juvenile Case File* (form JV-572) on the following:

34
35 (A) The county counsel, city attorney, or any other attorney representing the
36 petitioning agency in a dependency action if the child's petition was filed
37 under section 300;

38
39 (B) The district attorney if the child's petition was filed under section 601 or
40 602;

41
42 (C) The child;

1 (D) The attorney of record for the child who remains a ward or dependent of
2 the court;

3
4 (E) The parents or guardian of the child if:

5
6 (i) The child who is under 18 years of age or if a dependency petition (§
7 300 et seq.) was filed regarding the child ; or

8
9 (ii) The child's petition was filed under section 300;

10
11 (F) The guardians of the child if:

12
13 (i) The child is under 18 years of age; or

14
15 (ii) The child's petition was filed under section 300;

16
17 (G) The probation department or child welfare services program agency, or
18 both, if applicable.;

19
20 (H) The Indian child's tribe; and

21
22 (I) The child's CASA volunteer.

23
24 (2) The petitioner must complete *Proof of Service—Request for Disclosure* (form
25 JV-569) and file it with the court.

26
27 (3) If the petitioner does not know the identity or address of any of the parties in
28 (d)(1) above, the clerk must:

29
30 (A) Serve personally or by first-class mail to the last known address a copy
31 of *Request for Disclosure of Juvenile Case File* (form JV-570), *Notice of*
32 *Request for Disclosure of Juvenile Case File* (form JV-571), and a blank
33 copy of *Objection to Release of Juvenile Case File* (form JV-572); and

34
35 (B) Complete *Proof of Service—Request for Disclosure* (form JV-569) and
36 file it with the court.

37
38 (4) For good cause, the court may, on the motion of the person seeking the order
39 or on its own motion, shorten the time for service of the petition for
40 disclosure.

41
42 (Subd (d) amended effective January 1, 2009; previously amended effective January 1, 2007.)

43

1 (e) Procedure
2

- 3 (1) The court must review the petition and, ~~grant or~~ if petitioner does not show
4 good cause, deny it summarily;
5
6 (2) ~~or~~ If petitioner shows good cause, the court may set a hearing. The clerk must
7 notice all parties of the hearing; to the persons and entities listed in (d)(1)
8 above.~~If at the hearing~~
9
10 (3) Whether or not the court holds a hearing, if the court determines that there
11 may be information or documents in the records sought to which the petitioner
12 may be entitled, review of records must be in camera and the juvenile court
13 judicial officer must conduct an in camera review of the juvenile case file and
14 any objections and assume that all legal claims of privilege are asserted.
15
16 (4) In determining whether to authorize inspection or release of juvenile case
17 files, in whole or in part, the court must balance the interests of the child and
18 other parties to the juvenile court proceedings, the interests of the petitioner,
19 and the interests of the public.
20
21 (5) If the court grants the petition, the court must find that the need for discovery
22 outweighs the policy considerations favoring confidentiality of juvenile case
23 files. The confidentiality of juvenile case files is intended to protect the
24 privacy rights of the child.
25
26 (6) The court may permit disclosure of juvenile case files only insofar as is
27 necessary, and only if petitioner shows by a preponderance of the evidence
28 that the records requested are necessary and have substantial relevance to the
29 legitimate need of the petitioner.
30
31 (7) If, after in-camera review and review of any objections, the court determines
32 that all or a portion of the records juvenile case file may be disclosed, the
33 court must make appropriate orders, specifying the information to be disclosed
34 and the procedure for providing access to it.
35
36 (8) The court may issue protective orders to accompany authorized disclosure,
37 discovery, or access.

38
39 *(Subd (e) amended effective January 1, 2009; previously amended effective January 1, 2007.)*
40

41 ~~(f) Case files of deceased dependent child~~
42

1 Case files pertaining to a deceased child who was within the jurisdiction of the
2 juvenile court under section 300 must be released to the public by order of the court
3 following procedures in (b) and (c) of this rule. If the court orders the release of
4 case files pertaining to a deceased child, any information regarding the child or that
5 could identify a child other than the deceased must be redacted from the case file
6 before its release, absent a specific order to the contrary. The presiding judge of the
7 juvenile court may prohibit or limit access to a juvenile court file of a deceased
8 child if such a release would be detrimental to the safety, protection, or physical or
9 mental well-being of another child who is directly or indirectly connected to the
10 deceased child's case.

11
12 ~~(g)~~ (f) ***

13
14 *(Subd (f) relettered effective January 1, 2009; adopted as subd (f) effective January 1, 1994;*
15 *previously relettered as subd (g) effective January 1, 2001; previously amended effective January*
16 *1, 2007.)*

17
18 ~~(h)~~ (g) ***

19
20 *(Subd (g) relettered effective January 1, 2009; adopted as subd (g) effective July 1, 1995;*
21 *previously relettered effective as subd (h) effective January 1, 2001; previously amended effective*
22 *January 1, 2007.)*

23
24 ~~(i)~~ (h) ***

25
26 *(Subd (h) relettered effective January 1, 2009; adopted as subd (f) effective July 1, 1992;*
27 *previously relettered as subd (g) effective January 1, 1994, and as subd (i) effective January 1,*
28 *2001; previously amended and relettered as subd (h) effective July 1, 1995; previously amended*
29 *effective January 1, 2007.)*

30
31 *Rule 5.552 amended effective January 1, 2009; adopted as rule 1423 effective July 1, 1992; previously*
32 *amended effective January 1, 1994, July 1, 1995, July 1, 1997, January 1, 2001, and January 1, 2004;*
33 *previously amended and renumbered effective January 1, 2007.*

34
35 **Advisory Committee Comment**

36
37 ~~In 1990, the Judicial Council Advisory Committee on Juvenile Court Law assumed the responsibility for~~
38 ~~drafting a rule of court to address the issue of confidentiality of juvenile court records. The committee~~
39 ~~received requests from throughout the state for clarification of sections 827 and 828. County counsel,~~
40 ~~district attorneys, and representatives of probation departments and child welfare services programs, as~~
41 ~~well as judicial officers, expressed a need for guidance in this area.~~

42
43 ~~Some counties have developed their own protocols for access to and release of records; others handle the~~
44 ~~issue on a case-by-case basis with no clear guidelines regarding definitions or procedures. The rules and~~
45 ~~forms subcommittee undertook a thorough analysis of the relevant statutes and cases interpreting them.~~
46 ~~As subcommittee members examined the procedures set up in different jurisdictions, and the complex~~
47 ~~issues presented, they agreed that the rule needed to define "juvenile court records."~~

1
2 Once the definition was established, the primary concern was recognition of both the purposes of
3 confidentiality protections and the legitimate interests that certain agencies and individuals may have in
4 seeking access to identified materials. Essential to the process were the notice requirements and the
5 procedure for the court to follow in assessing the merits of a request for disclosure or release. In order to
6 make these considerations as clear and structured as possible, the subcommittee recommended that a
7 petition form also be prepared.

8
9 Proposed rule 5.552 and proposed *Petition for Disclosure of Juvenile Court Records* (form JV 570) were
10 drafted and circulated for comment. There were many responses, all of which were carefully considered
11 by the committee as a whole, and several suggestions and amendments were incorporated. The comments
12 universally welcomed the addition of the rule and the formalization of a procedure through the use of the
13 form.

14
15 The rule does not attempt to set forth a procedure for access to records protected under other statutes or to
16 include documents or materials not specifically under the authority of the juvenile court. Thus, the files
17 maintained by probation departments and child welfare services programs may be the subject of a JV 570
18 petition to disclose only if a section 300, 601, or 602 petition concerning the subject child has been filed
19 in juvenile court at some time (before, after, or concurrent with the acquisition of the materials in the
20 files). The protection of reports of suspected child abuse is recognized and specifically identified in (f) of
21 the rule. (Reference to Pen. Code, § 11165 et seq.)

22
23 Notice to the subject child that his or her records are being sought is fundamental, as is notice to the
24 parents of a child who has not reached majority. Because dependency files contain many references to
25 and details of family issues, notice to parents of children on whom section 300 petitions were filed is also
26 mandated. Because their records are most commonly the subjects of such requests, the probation
27 department and child welfare services program were added to the list of persons and agencies requiring
28 notice. Although some commentators questioned the requirement of notice to both the county counsel and
29 the district attorney because there are frequent “cross overs” of purposes of disclosure, it was felt that
30 notice to both offices would assure the court that all those interested in the records would have an
31 opportunity to respond to the petition.

32
33 Because these are confidential records and the protection of the interest of the child is paramount, specific
34 procedural safeguards are appropriate.

35 36 37 **Rule 5.553. Juvenile case file of a deceased child**

38
39 When the juvenile case file of a deceased child is sought, the court must proceed as
40 follows:

- 41
42 (1) Under section 827(a)(2) if the request is made by a member of the public; or
43
44 (2) Under section 16502.5 if the request is made by a county board of supervisors.

45
46 *Rule 5.553 adopted effective January 1, 2009.*
47

1
2 **Rule 5.570. Request to change court order**

3
4 **(a) Contents of petition (§§ 388, 778)**

5
6 A petition for modification must be liberally construed in favor of its sufficiency.
7 The petition must be verified and, to the extent known to the petitioner, must
8 contain the following:

9
10 (1)–(3) ***

11
12 (4) The address of the child, unless confidential under ~~(b)~~(c);

13
14 (5) The name and residence address of the parent or guardian or an adult relative
15 of the child, if appropriate ~~under circumstances described in rule 5.524 to~~
16 receive notice following the procedures found in Welfare and Institutions
17 Code sections 291 and 297(c);

18
19 (6)–(10) ***

20
21 *(Subd (a) amended effective January 1, 2009; previously amended effective July 1, 2002, and*
22 *January 1, 2007.)*

23
24 **(b)–(i) *****

25
26 *Rule 5.570 amended effective January 1, 2009; adopted as rule 1432 effective January 1, 1991;*
27 *previously amended effective January 1, 1992, July 1, 1995, July 1, 2000, July 1, 2002, and January 1,*
28 *2003; previously amended and renumbered effective January 1, 2007.*

29
30
31 **Rule 5.600. Writ petition after orders setting hearing under section 366.26; appeal**

32
33 **(a)–(e) *****

34
35 **(f) Record**

36
37 Immediately on the filing of the notice of intent to file a writ petition and request for
38 record, the clerk of the juvenile court must assemble the record:

39
40 (1) ***

41
42 (2) Preparing the clerk's transcript under rule ~~8.616(a)~~ 8.450(g).

43
44 ***

1
2 (Subd (f) amended effective January 1, 2009; adopted as subd (f) effective January 1, 1995;
3 previously amended effective January 1, 1996; previously amended and relettered as subd (h)
4 effective January 1, 2006, and as subd (f) effective January 1, 2007.)
5

6 **(g)–(j) *****
7

8 *Rule 5.600 amended effective January 1, 2009; adopted as rule 1436.5 effective January 1, 1995;*
9 *previously amended effective July 1, 1995, January 1, 1996, and July 1, 2006; previously amended and*
10 *renumbered effective January 1, 2007.*
11

12
13 **Rule 5.640. Psychotropic medications**
14

15 **(a) Definition (§§ 369.5(b)(d), 739.5(d))**
16

17 ***
18

19 *(Subd (a) amended effective January 1, 2009; previously amended effective January 1, 2007.)*
20

21 **(b) Authorization to administer (§§ 369.5, 739.5)**
22

23 (1) Once a child is declared a dependent child of the court and is removed from
24 the custody of the parents or guardian, only a juvenile court judicial officer is
25 authorized to make orders regarding the administration of psychotropic
26 medication to the child.
27

28 (2) Once a child is declared a ward of the court, removed from the custody of the
29 parents or guardian, and placed into foster care, as defined in Welfare and
30 Institutions Code section 727.4, only a juvenile court judicial officer is
31 authorized to make orders regarding the administration of psychotropic
32 medication to the child.
33

34 *(Subd (b) amended effective January 1, 2009.)*
35

36 **(c) Procedure to obtain authorization**
37

38 (1) *Application Regarding Psychotropic Medication* (form JV-220), *Prescribing*
39 *Physician’s Statement—Attachment* (form JV-220(A)), *Proof of Notice:*
40 *Application Regarding Psychotropic Medication* (form JV-221), *Opposition to*
41 *Application Regarding Psychotropic Medication* (form JV-222), and *Order*
42 *Regarding Application for Psychotropic Medication* (form JV-223) must be
43 used to obtain authorization to administer psychotropic medication to a
44 dependent child of the court who is removed from the custody of the parents

1 or guardian, or to a ward of the court who is removed from the custody of the
2 parents or guardian and placed into foster care.

3
4 (2)–(4) ***

5
6 (5) *Application Regarding Psychotropic Medication* (form JV-220) may be
7 completed by the prescribing physician, medical office staff, child welfare
8 services staff, probation officer, or the child’s caregiver. The physician
9 prescribing the administration of psychotropic medication for the ~~dependent~~
10 child must complete and sign *Prescribing Physician’s Statement—Attachment*
11 (form JV-220(A)).

12
13 (6)–(8) ***

14
15 (9) The court may grant the application without a hearing or may set the matter
16 for hearing at the court’s discretion. If the court sets the matter for a hearing,
17 the clerk of the court must provide notice of the date, time, and location of the
18 hearing to the parents or legal guardians, their attorneys of record, the
19 dependent child if 12 years of age or older, a ward of the juvenile court of any
20 age, the child’s attorney of record, the child’s current caregiver, the child’s
21 social worker, the social worker’s attorney of record, the child’s Child Abuse
22 Prevention and Treatment Act guardian ad litem, and the child’s Court
23 Appointed Special Advocate, if any, at least two court days before the hearing.
24 Notice must be provided to the child’s probation officer and the district
25 attorney, if the child is a ~~delinquent child~~ ward of the juvenile court.

26
27 *(Subd (c) amended effective January 1, 2009; previously amended effective January 1, 2007, and*
28 *January 1, 2008.)*

29
30 (d)–(g) ***

31
32 **(h) Section 601–602 wardships; local rules**

33
34 A local rule of court may be adopted providing that authorization for the
35 administration of such medication to a child declared a ward of the court under
36 sections 601 and 602 and removed from the custody of the parent or guardian for
37 placement in a facility that is not considered a foster-care placement may be
38 similarly restricted to the juvenile court. If the local court adopts such a local rule,
39 then the procedures under this rule apply; any reference to social worker also
40 applies to probation officer.

41
42 *(Subd (h) amended effective January 1, 2009; adopted as subd (i) effective January 1, 2001;*
43 *previously amended effective January 1, 2007; previously relettered effective January 1, 2008.)*

1
2 *Rule 5.640 amended effective January 1, 2009; adopted as rule 1432.5 effective January 1, 2001;*
3 *previously amended effective January 1, 2003, and January 1, 2008; previously amended and*
4 *renumbered effective January 1, 2007.*

5
6
7 **Rule 5.645. Mental health or condition of child; court procedures**

8
9 **(a)–(b) *****

10
11 **(c) Findings regarding mental retardation (§ 6551)**

12
13 Article ~~I~~ 1 of chapter 2 of part 1 of division 5 (commencing with section 5150)
14 applies.

15
16 **(1)–(3) *****

17
18 *(Subd (c) amended effective January 1, 2009; previously amended effective January 1, 2007.)*

19
20 **(d) *****

21
22 *Rule 5.645 amended effective January 1, 2009; adopted as rule 1498 effective January 1, 1999;*
23 *previously amended and renumbered effective January 1, 2007.*

24
25
26 **Rule 5.690. General conduct of disposition hearing**

27
28 **(a)–(b) *****

29
30 **(c) Case plan (§ 16501.1)**

31
32 Whenever child welfare services are provided, the social worker must prepare a
33 case plan.

34
35 **(1)** A written case plan ~~must~~ must be completed and filed with the court by the
36 date of disposition or within 60 calendar days of initial removal or of the in-
37 person response required under section 16501(f) if the child has not been
38 removed from his or her home, whichever occurs first.

39
40 **(2)–(3) *****

41
42 *(Subd (c) amended effective January 1, 2009; adopted effective January 1, 2007.)*

1 *Rule 5.690 amended effective January 1, 2009; adopted as rule 1455 effective January 1, 1991;*
2 *previously amended effective July 1, 1995, and January 1, 2000; previously amended and renumbered*
3 *effective January 1, 2007.*

4
5
6 **Rule 5.725. Selection of permanent plan (§§ 366.26, 727.31)**

7
8 **(a) Application of rule**

9
10 This rule applies to children who have been declared dependents or wards of the
11 juvenile court.

12
13 (1) ~~For those dependents,~~ Only section 366.26 and division 12, part 3, chapter 5
14 (commencing with section 7660) of the Family Code or Family Code sections
15 8604, 8605, 8606, and 8700 apply for the termination of parental rights. Part 4
16 (commencing with section 7800) of division 12 of the Family Code, ~~or former~~
17 ~~Civil Code section 232,~~ does not apply.

18
19 (2) The court may not terminate the rights of only one parent under section 366.26
20 unless that parent is the only surviving parent; or unless the rights of the other
21 parent have been terminated under ~~former Civil Code section 224, 224m, 232,~~
22 ~~or 7017,~~ or division 12, part 3, chapter 5 (commencing with section 7660), or
23 division 12, part 4 (commencing with section 7800) ~~of division 12~~ of the
24 Family Code, or Family Code sections 8604, 8605, or 8606; or unless the
25 other parent has relinquished custody of the child to the welfare department.

26
27 (3) ***

28
29 (4) For termination of the parental rights of an Indian child, the procedures in this
30 rule and in rule 5.485 must be followed.

31
32 *(Subd (a) amended effective January 1, 2009; previously amended effective January 1, 1994, July*
33 *1, 2002, and January 1, 2007.*

34
35 **(b)–(d) *****

36
37 **(e) Conduct of hearing**

38
39 At the hearing, the court must state on the record that the court has read and
40 considered the report of petitioner, the report of any CASA volunteer, the case plan
41 submitted for this hearing, any report submitted by the child’s caregiver under
42 section 366.21(d), and any other evidence, and must proceed as follows:
43

1 (1) Order parental rights terminated and the child placed for adoption if the court
2 determines, by clear and convincing evidence, that it is likely the child will be
3 adopted, unless:
4

5 (A) ***
6

7 (B) The child is living with a relative who is unable or unwilling to adopt the
8 child because of circumstances that do not include an unwillingness to
9 accept legal or financial responsibility for the child, but who is willing
10 and capable of providing the child with a stable and permanent
11 environment through legal guardianship, and removal from the home of
12 the relative would be detrimental to the emotional well-being of the
13 child. For an Indian child, “relative” includes an “extended family
14 member,” as defined in the federal Indian Child Welfare Act (25 U.S.C.
15 §1903(2)); or
16

17 ~~(B)~~ (C) The court finds a compelling reason to determine that termination
18 would be detrimental to the child because of the existence of one of the
19 following circumstances:
20

21 (i)–(iii) ***
22

23 (iv) The child is living with a ~~relative or~~ foster parent or Indian
24 custodian who is unable or unwilling to adopt the child because of
25 exceptional circumstances, but who is willing and capable of
26 providing the child with a stable and permanent home, and removal
27 from the home of the ~~relative or~~ foster parent or Indian custodian
28 would be detrimental to the emotional well-being of the child. This
29 exception does not apply to (1) a child under 6 or (2) a child who
30 has a sibling under 6 who is also a dependent and with whom the
31 child should be placed permanently; or
32

33 (v) ***
34

35 (2)–(9) ***
36

37 *(Subd (e) amended effective January 1, 2009; repealed and adopted as subd (c) effective January*
38 *1, 1991; previously amended and relettered as subd (d) effective January 1, 1992, and as subd (e)*
39 *effective January 1, 2005; previously amended effective July 1, 1994, January 1, 1999, July 1,*
40 *1999, July 1, 2002, January 1, 2006, and January 1, 2007.)*
41

42 (f)–(i) ***
43