

AMENDED IN ASSEMBLY APRIL 24, 2000

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2921**

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**Introduced by Committee on Human Services (Aroner (Chair), Ashburn (Vice Chair), Bock, Ducheny, Dutra, Floyd, and Strom-Martin)**

March 16, 2000

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An act to amend Sections 8703, 8714, 8714.5, 8714.7, 8715, 9201, 9202, and 9203 of the Family Code, and to amend Sections 366.21, 366.22, and 366.3 of, and to repeal Sections 366.24 and 366.25 of, the Welfare and Institutions Code, relating to minors.

LEGISLATIVE COUNSEL'S DIGEST

AB 2921, as amended, Committee on Human Services. Minors: adoption: dependent children.

(1) Existing law requires that, when the parental rights of a birth parent are terminated, the State Department of Social Services or licensed adoption agency responsible for the adoptive placement of the child, shall send written notice to the birth parent encouraging the birth parent to keep the department or agency informed of the birth parent's current address in order to permit a response to any inquiry concerning the medical or social history made by or on behalf of the child.

This bill would require the written notice to also inform the birth parent of an adopted person's right, upon attaining the age of 21 years, to request from the department or licensed

adoption agency the name and address of the adoptee's birth parent or parents, and to give the birth parent or parents the opportunity to indicate whether or not to disclose this information.

Existing law authorizes written kinship adoption agreements providing for continuing contact between the adopting parent or parents, birth relatives including the birth parent or parents, and the child, provided the court finds this to be in the best interests of the child at the time the adoption petition is granted. These agreements are only authorized where the adopting parent is a specified relative of the child or a relative of the child's half sibling.

This bill would change all references to kinship adoption agreements to postadoption contact agreements and authorize nonrelative adopting parents to enter into such an agreement. The bill would require that a copy of any postadoption contact agreement be attached to the petition.

Existing law provides that the department and any licensed adoption agency may furnish information relating to an adoption petition to the juvenile court, county welfare department, public welfare agency, or private welfare agency if the child's welfare will be promoted.

This bill would expand these provisions to include the furnishing of information with respect to a child in the custody of the department or licensed adoption agency to the above entities, and would specify additional specified persons to whom the information may be released. The bill would prohibit the department or a licensed adoption agency from releasing information that would identify persons who receive, or have received, adoption services with specified exceptions. The bill would require employees of the department and licensed adoption agencies to release any information, including identifying information, requested by the department at Sacramento for the purposes of recordkeeping, monitoring, evaluation, and regulation of adoption services. The bill would make other related changes.

By imposing new duties on local officials, the bill would create a state mandated local program.



(2) Existing law requires that the juvenile court must conduct specified periodic hearings reviewing the status of dependent children who have been placed in foster care.

This bill, among other things, would revise and reorganize certain of these provisions relating to the effect of certain circumstances upon a determination of failure to provide or offer required reasonable services; specify that references in these provisions to “guardians” are to “legal guardians;” and eliminate certain duplicative provisions.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 8703 of the Family Code is  
2 amended to read:  
3 8703. When the parental rights of a birth parent are  
4 terminated pursuant to Chapter 5 (commencing with  
5 Section 7660) of Part 3 of Division 12 or Part 4  
6 (commencing with Section 7800) of Division 12, or  
7 pursuant to Section 366.25 or 366.26 of the Welfare and  
8 Institutions Code, the department or licensed adoption  
9 agency responsible for the adoptive placement of the  
10 child shall send a written notice to the birth parent, if the  
11 birth parent’s address is known, that contains the  
12 following statement:  
13



1 (a) "You are encouraged to keep the department or  
2 this agency informed of your current address in order to  
3 permit a response to any inquiry concerning medical or  
4 social history made by or on behalf of the child who was  
5 the subject of the court action terminating parental  
6 rights."

7 (b) Section 9203 of the Family Code authorizes a  
8 person who has been adopted and who attains the age of  
9 21 years to make a request to the State Department of  
10 Social Services, or the licensed adoption agency, that  
11 joined in the adoption petition, for the name and address  
12 of the adoptee's birth parents. Indicate by checking one  
13 of the boxes below whether or not you wish your name  
14 and address to be disclosed:

15  
16  YES

17  
18  NO

19  
20  UNCERTAIN AT THIS TIME; WILL NOTIFY  
21 AGENCY AT LATER DATE"

22  
23 SEC. 2. Section 8714 of the Family Code is amended  
24 to read:

25 8714. (a) A person desiring to adopt a child may for  
26 that purpose file a petition in the county in which the  
27 petitioner resides. Where a child has been adjudged to be  
28 a dependent of the juvenile court pursuant to Section 300  
29 of the Welfare and Institutions Code, and has thereafter  
30 been freed for adoption by the juvenile court, the petition  
31 may be filed either in the county where the petitioner  
32 resides or in the county where the child was freed for  
33 adoption.

34 (b) The court clerk shall immediately notify the  
35 department at Sacramento in writing of the pendency of  
36 the proceeding and of any subsequent action taken.

37 (c) If the petitioner has entered into a postadoption  
38 contact agreement with the birth parent as set forth in  
39 Section 8714.7, the agreement, signed by the



1 participating parties, shall be attached to and filed with  
2 the petition for adoption under subdivision (a).

3 (d) The caption of the adoption petition shall contain  
4 the names of the petitioners, but not the child's name.  
5 The petition shall state the child's sex and date of birth.  
6 The name the child had before adoption shall appear in  
7 the joinder signed by the licensed adoption agency.

8 (e) If the child is the subject of a guardianship petition,  
9 the adoption petition shall so state and shall include the  
10 caption and docket number or have attached a copy of  
11 the letters of the guardianship or temporary  
12 guardianship. The petitioners shall notify the court of any  
13 petition for guardianship or temporary guardianship filed  
14 after the adoption petition. The guardianship proceeding  
15 shall be consolidated with the adoption proceeding.

16 (f) The order of adoption shall contain the child's  
17 adopted name, but not the name the child had before  
18 adoption.

19 SEC. 3. Section 8714.5 of the Family Code is amended  
20 to read:

21 8714.5. (a) The Legislature finds and declares the  
22 following:

23 (1) It is the intent of the Legislature to expedite legal  
24 permanency for children who cannot return to their  
25 parents and to remove barriers to adoption by relatives  
26 of children who are already in the dependency system or  
27 who are at risk of entering the dependency system.

28 (2) This goal will be achieved by empowering families,  
29 including extended families, to care for their own  
30 children safely and permanently whenever possible, by  
31 preserving existing family relationships, thereby causing  
32 the least amount of disruption to the child and the family,  
33 and by recognizing the importance of sibling and  
34 half-sibling relationships.

35 (b) A relative desiring to adopt a child may for that  
36 purpose file a petition in the county in which the  
37 petitioner resides. Where a child has been adjudged to be  
38 a dependent of the juvenile court pursuant to Section 300  
39 of the Welfare and Institutions Code, and thereafter has  
40 been freed for adoption by the juvenile court, the petition



1 may be filed either in the county where the petitioner  
2 resides or in the county where the child was freed for  
3 adoption.

4 (c) Upon the filing of a petition for adoption by a  
5 relative, the county clerk shall immediately notify the  
6 State Department of Social Services in Sacramento in  
7 writing of the pendency of the proceeding and of any  
8 subsequent action taken.

9 (d) If the adopting relative has entered into a  
10 postadoption contact agreement with the birth parent as  
11 set forth in Section 8714.7, the agreement, signed by the  
12 participating parties, shall be attached to and filed with  
13 the petition for adoption under subdivision (b).

14 (e) The caption of the adoption petition shall contain  
15 the name of the relative petitioner. The petition shall  
16 state the child's name, sex, and date of birth.

17 (f) If the child is the subject of a guardianship petition,  
18 the adoption petition shall so state and shall include the  
19 caption and docket number or have attached a copy of  
20 the letters of the guardianship or temporary  
21 guardianship. The petitioner shall notify the court of any  
22 petition for adoption. The guardianship proceeding shall  
23 be consolidated with the adoption proceeding.

24 (g) The order of adoption shall contain the child's  
25 adopted name and, if requested by the adopting relative,  
26 or if requested by the child who is 12 years of age or older,  
27 the name the child had before adoption.

28 (h) *For purposes of this section, "relative" means an*  
29 *adult who is related to the child or the child's half sibling*  
30 *by blood or affinity, including all relatives whose status is*  
31 *preceded by the words "step," "great," "great-great," or*  
32 *"grand," or the spouse of any of these persons, even if the*  
33 *marriage was terminated by death or dissolution.*

34 SEC. 4. Section 8714.7 of the Family Code is amended  
35 to read:

36 8714.7. (a) Nothing in the adoption laws of this state  
37 shall be construed to prevent the adopting parent or  
38 parents, the birth relatives, including the birth parent or  
39 parents, and the child from entering into a written  
40 agreement to permit continuing contact between the



1 birth relatives, including the birth parent or parents, and  
2 the child if the agreement is found by the court to be in  
3 the best interests of the child at the time the adoption  
4 petition is granted. The terms of any postadoption  
5 contact agreement executed under this section shall be  
6 limited to, but need not include, all of the following:

7 (1) Provisions for visitation between the child and a  
8 birth parent or parents and other birth relatives,  
9 including siblings.

10 (2) Provisions for future contact between a birth  
11 parent or parents or other birth relatives, including  
12 siblings, or both, and the child or an adoptive parent, or  
13 both.

14 (3) Provisions for the sharing of information about the  
15 child in the future.

16 (b) At the time an adoption decree is entered  
17 pursuant to a petition filed under Section 8714 or 8714.5,  
18 the court entering the decree may grant postadoption  
19 privileges when an agreement for those privileges has  
20 been entered into pursuant to subdivision (a).

21 (c) The child who is the subject of the adoption  
22 petition shall be considered a party to the postadoption  
23 contact agreement. The written consent to the terms and  
24 conditions of the postadoption contact agreement and  
25 any subsequent modifications of the agreement by a child  
26 who is 12 years of age and older is a necessary condition  
27 to the granting of privileges regarding visitation, contact,  
28 or sharing of information about the child, unless the court  
29 finds by a preponderance of the evidence that the  
30 agreement, as written, is in the best interests of the child.  
31 Any child who has been found to come within Section 300  
32 of the Welfare and Institutions Code or who is the subject  
33 of a petition for jurisdiction of the juvenile court under  
34 Section 300 of the Welfare and Institutions Code shall be  
35 represented by an attorney for purposes of consent to the  
36 postadoption contact agreement.

37 (d) A postadoption contact agreement shall contain  
38 the following warnings in bold type:

39 (1) After the adoption petition has been granted by  
40 the court, the adoption cannot be set aside due to the



1 failure of an adopting parent, a birth parent, a birth  
2 relative, or the child to follow the terms of this agreement  
3 or a later change to this agreement.

4 (2) A disagreement between the parties or litigation  
5 brought to enforce or modify the agreement shall not  
6 affect the validity of the adoption and shall not serve as  
7 a basis for orders affecting the custody of the child.

8 (3) A court will not act on a petition to change or  
9 enforce this agreement unless the petitioner has  
10 participated, or attempted to participate, in good faith in  
11 mediation or other appropriate dispute resolution  
12 proceedings to resolve the dispute.

13 (e) Upon the granting of the adoption petition and the  
14 issuing of the order of adoption of a child who is a  
15 dependent of the juvenile court, juvenile court  
16 dependency jurisdiction shall be terminated.  
17 Enforcement of the postadoption contact agreement  
18 shall be under the continuing jurisdiction of the court  
19 granting the petition of adoption. The court may not  
20 order compliance with the agreement absent a finding  
21 that the party seeking the enforcement participated, or  
22 attempted to participate, in good faith in mediation or  
23 other appropriate dispute resolution proceedings  
24 regarding the conflict, prior to the filing of the  
25 enforcement action, and that the enforcement is in the  
26 best interests of the child. Documentary evidence or  
27 offers of proof may serve as the basis for the court's  
28 decision regarding enforcement. No testimony or  
29 evidentiary hearing shall be required. The court shall not  
30 order further investigation or evaluation by any public or  
31 private agency or individual absent a finding by clear and  
32 convincing evidence that the best interests of the child  
33 may be protected or advanced only by such inquiry and  
34 that the inquiry will not disturb the stability of the child's  
35 home to the detriment of the child.

36 (f) The court may not award monetary damages as a  
37 result of the filing of the civil action pursuant to  
38 subdivision (e) of this section.



1 (g) A postadoption contact agreement may be  
2 modified or terminated only if either of the following  
3 occurs:

4 (1) All parties, including the child if the child is 12  
5 years of age or older at the time of the requested  
6 termination or modification, have signed a modified  
7 postadoption contact agreement and the agreement is  
8 filed with the court that granted the petition of adoption.

9 (2) The court finds all of the following:

10 (A) The termination or modification is necessary to  
11 serve the best interests of the child.

12 (B) There has been a substantial change of  
13 circumstances since the original agreement was executed  
14 and approved by the court.

15 (C) The party seeking the termination or modification  
16 has participated, or attempted to participate, in good  
17 faith in mediation or other appropriate dispute resolution  
18 proceedings prior to seeking court approval of the  
19 proposed termination or modification.

20 Documentary evidence or offers of proof may serve as  
21 the basis for the court's decision. No testimony or  
22 evidentiary hearing shall be required. The court shall not  
23 order further investigation or evaluation by any public or  
24 private agency or individual absent a finding by clear and  
25 convincing evidence that the best interests of the child  
26 may be protected or advanced only by such inquiry and  
27 that the inquiry will not disturb the stability of the child's  
28 home to the detriment of the child.

29 (h) All costs and fees of mediation or other  
30 appropriate dispute resolution proceedings shall be  
31 borne by each party, excluding the child. All costs and  
32 fees of litigation shall be borne by the party filing the  
33 action to modify or enforce the agreement when no party  
34 has been found by the court as failing to comply with an  
35 existing postadoption contact agreement. Otherwise, a  
36 party, other than the child, found by the court as failing  
37 to comply without good cause with an existing agreement  
38 shall bear all the costs and fees of litigation.



1 (i) By July 1, 2001, the Judicial Council shall adopt rules  
2 of court and forms for motions to enforce, terminate, or  
3 modify postadoption contact agreements.

4 (j) The court shall not set aside a decree of adoption,  
5 rescind a relinquishment, or modify an order to terminate  
6 parental rights or any other prior court order because of  
7 the failure of a birth parent, adoptive parent, birth  
8 relative, or the child to comply with any or all of the  
9 original terms of, or subsequent modifications to, the  
10 postadoption contact agreement.

11 *SEC. 4.5. Section 8715 of the Family Code is amended*  
12 *to read:*

13 8715. (a) The department or licensed adoption  
14 agency, whichever is a party to or joins in the petition,  
15 shall submit a full report of the facts of the case to the  
16 court.

17 (b) If the child has been adjudged to be a dependent  
18 of the juvenile court pursuant to Section 300 of the  
19 Welfare and Institutions Code, and has thereafter been  
20 freed for adoption by the juvenile court, the report  
21 required by this section shall describe whether the  
22 requirements of subdivision (e) of Section 16002 of the  
23 Welfare and Institutions Code have been completed and  
24 what, if any, plan exists for facilitation of postadoptive  
25 contact between the child who is the subject of the  
26 adoption petition and his or her siblings and half-siblings.

27 (c) Where a petition for adoption ~~by a relative~~ has  
28 been filed with a ~~kinship adoption~~ *postadoption contact*  
29 agreement pursuant to Section 8714.7, the report shall  
30 address whether the kinship adoption agreement is in the  
31 best interest of the child who is the subject of the petition.  
32 The department may also submit a report in those cases  
33 in which a licensed adoption agency is a party or joins in  
34 the adoption petition.

35 *SEC. 5. Section 9201 of the Family Code is amended*  
36 *to read:*

37 9201. (a) Except as otherwise permitted or required  
38 by statute, neither the department nor a licensed  
39 adoption agency shall release information that would



1 identify persons who receive, or have received, adoption  
2 services.

3 (b) Employees of the department and licensed  
4 adoption agencies shall release to the department at  
5 Sacramento any requested information, including  
6 identifying information, for the purposes of  
7 recordkeeping and monitoring, evaluation, and  
8 regulation of the provision of adoption services.

9 (c) Prior to the placement of a child for adoption, the  
10 department or licensed adoption agency may, upon the  
11 written request of both a birth and a prospective adoptive  
12 parent, arrange for contact between these birth and  
13 prospective adoptive parents that may include the  
14 sharing of identifying information regarding these  
15 parents.

16 (d) The department and any licensed adoption  
17 agency may, upon written authorization for the release of  
18 specified information by the subject of that information,  
19 share information regarding a prospective adoptive  
20 parent or birth parent with other social service agencies,  
21 including the department and other licensed adoption  
22 agencies, or providers of health care as defined in Section  
23 56.05 of the Civil Code.

24 (e) Notwithstanding any other law, the department  
25 and any licensed adoption agency may furnish  
26 information relating to an adoption petition or to a child  
27 in the custody of the department or any licensed adoption  
28 agency to the juvenile court, county welfare department,  
29 public welfare agency, private welfare agency licensed  
30 by the department, provider of foster care services,  
31 potential adoptive parent, or provider of health care as  
32 defined in Section 56.05 of the Civil Code, if it is believed  
33 the child's welfare will be promoted thereby.

34 (f) The department and any licensed adoption agency  
35 may make adoptions case records, including identifying  
36 information, available for research purposes, provided  
37 that the research will not result in the disclosure of the  
38 identity of the child or the parties to the adoption to  
39 anyone other than the entity conducting the research.



1 SEC. 6. Section 9202 of the Family Code is amended  
2 to read:

3 9202. (a) Notwithstanding any other law, the  
4 department or licensed adoption agency that made a  
5 medical report required by Section 8706, 8817, or 8909  
6 shall provide a copy of the medical report, in the manner  
7 the department prescribes by regulation, to any of the  
8 following persons upon the person's request:

9 (1) A person who has been adopted pursuant to this  
10 part and who has attained the age of 18 years or who  
11 presents a certified copy of the person's marriage  
12 certificate.

13 (2) The adoptive parent of a person under the age of  
14 18 years who has been adopted pursuant to this part.

15 (b) A person who is denied access to a medical report  
16 pursuant to regulations adopted pursuant to this section  
17 may petition the court for review of the reasonableness  
18 of the department's or licensed adoption agency's  
19 decision.

20 (c) The names and addresses of any persons contained  
21 in the report shall be removed unless the person  
22 requesting the report has previously received the  
23 information.

24 SEC. 7. Section 9203 of the Family Code is amended  
25 to read:

26 9203. (a) The department or a licensed adoption  
27 agency shall do the following:

28 (1) Upon the request of a person who has been  
29 adopted pursuant to this part and who has attained the  
30 age of 21 years, disclose the identity of the person's birth  
31 parent or parents and their most current address shown  
32 in the records of the department or licensed adoption  
33 agency, if the birth parent or parents have indicated  
34 consent to the disclosure in writing.

35 (2) Upon the request of the birth parent of a person  
36 who has been adopted pursuant to this part and who has  
37 attained the age of 21 years, disclose the adopted name of  
38 the adoptee and the adoptee's most current address  
39 shown in the records of the department or licensed  
40 adoption agency, if the adult adoptee has indicated in



1 writing, pursuant to the registration program developed  
2 by the department, that the adult adoptee wishes the  
3 adult adoptee's name and address to be disclosed.

4 (3) Upon the request of the adoptive parent of a  
5 person under the age of 21 years who has been adopted  
6 pursuant to this part, disclose the identity of a birth parent  
7 and the birth parent's most current address shown in the  
8 records of the department or licensed adoption agency if  
9 the department or licensed adoption agency finds that a  
10 medical necessity or other extraordinary circumstances  
11 justify the disclosure.

12 (b) The department shall prescribe the form of the  
13 request required by this section. The form shall provide  
14 for an affidavit to be executed by the requester that to the  
15 best of the requester's knowledge the requester is an  
16 adoptee, the adoptee's birth parent, or the adoptee's  
17 adoptive parent. The department may adopt regulations  
18 requiring any additional means of identification from a  
19 requester that it deems necessary. The request shall  
20 advise an adoptee that if the adoptee consents, the  
21 adoptee's adoptive parents will be notified of the filing of  
22 the request before the release of the name and address of  
23 the adoptee's birth parent.

24 (c) Subdivision (a) is not applicable if a birth parent  
25 or an adoptee has indicated that he or she does not wish  
26 his or her name or address to be disclosed.

27 (d) Within 20 working days of receipt of a request for  
28 information pursuant to this section, the department shall  
29 either respond to the request or forward the request to a  
30 licensed adoption agency that was a party to the adoption.

31 (e) Notwithstanding any other law, the department  
32 shall announce the availability of the present method of  
33 arranging contact among an adult adoptee, the adult  
34 adoptee's birth parents, and adoptive parents authorized  
35 by Section 9204 utilizing a means of communication  
36 appropriate to inform the public effectively.

37 (f) The department or licensed adoption agency may  
38 charge a reasonable fee in an amount the department  
39 establishes by regulation to cover the costs of processing  
40 requests for information made pursuant to subdivision



1 (a). The department or licensed adoption agency shall  
2 waive fees authorized by this section for any person who  
3 is receiving public assistance pursuant to Part 3  
4 (commencing with Section 11000) of Division 9 of the  
5 Welfare and Institutions Code. The revenue resulting  
6 from the fees so charged shall be utilized by the  
7 department or licensed adoption agency to increase  
8 existing staff as needed to process these requests. Fees  
9 received by the department shall be deposited in the  
10 Adoption Information Fund. This revenue shall be in  
11 addition to any other funds appropriated in support of the  
12 state adoption program.

13 (g) This section applies only to adoptions in which the  
14 relinquishment for or consent to adoption was signed *or*  
15 *the birth parent's rights were involuntarily terminated by*  
16 *court action* on or after January 1, 1984.

17 **SECTION**

18 *SEC. 8.* Section 366.21 of the Welfare and Institutions  
19 Code is amended to read:

20 366.21. (a) Every hearing conducted by the juvenile  
21 court reviewing the status of a dependent child shall be  
22 placed on the appearance calendar. The court shall advise  
23 all persons present at the hearing of the date of the future  
24 hearing and of their right to be present and represented  
25 by counsel.

26 (b) Except as provided in Section 366.23 and  
27 subdivision (a) of Section 366.3, notice of the hearing shall  
28 be mailed by the social worker to the same persons as in  
29 the original proceeding, to the child's parent or legal  
30 guardian, to the foster parents, relative caregivers,  
31 community care facility, or foster family agency having  
32 physical custody of the child in the case of a child  
33 removed from the physical custody of his or her parent or  
34 legal guardian, and to the counsel of record if the counsel  
35 of record was not present at the time that the hearing was  
36 set by the court, by first-class mail addressed to the last  
37 known address of the person to be notified, or shall be  
38 personally served on those persons, not earlier than 30  
39 days nor later than 15 days preceding the date to which  
40 the hearing was continued. Service of a copy of the notice



1 personally or by certified mail return receipt requested,  
2 or any other form of actual notice is equivalent to service  
3 by first-class mail.

4 The notice shall contain a statement regarding the  
5 nature of the hearing to be held and any change in the  
6 custody or status of the child being recommended by the  
7 supervising agency. The notice to the foster parent,  
8 relative caregiver, or a certified foster parent who has  
9 been approved for adoption by the State Department of  
10 Social Services when it is acting as an adoption agency in  
11 counties that are not served by a county adoption agency  
12 or by a licensed county adoption agency shall indicate  
13 that the foster parent, relative caregiver, or a certified  
14 foster parent who has been approved for adoption by the  
15 State Department of Social Services when it is acting as  
16 an adoption agency in counties that are not served by a  
17 county adoption agency or by a licensed county adoption  
18 agency may attend all hearings or may submit any  
19 information he or she deems relevant to the court in  
20 writing.

21 (c) At least 10 calendar days prior to the hearing, the  
22 social worker shall file a supplemental report with the  
23 court regarding the services provided or offered to the  
24 parent or legal guardian to enable him or her to assume  
25 custody and the efforts made to achieve legal  
26 permanence for the child if efforts to reunify fail, the  
27 progress made, and, where relevant, the prognosis for  
28 return of the child to the physical custody of his or her  
29 parent or legal guardian, and make his or her  
30 recommendation for disposition. If the child is a member  
31 of a sibling group described in paragraph (3) of  
32 subdivision (a) of Section 361.5, the report and  
33 recommendation may also take into account those factors  
34 described in subdivision (e) relating to the child's sibling  
35 group. If the recommendation is not to return the child  
36 to a parent or legal guardian, the report shall specify why  
37 the return of the child would be detrimental to the child.  
38 The social worker shall provide the parent or legal  
39 guardian with a copy of the report, including his or her  
40 recommendation for disposition, at least 10 calendar days



1 prior to the hearing. In the case of a child removed from  
2 the physical custody of his or her parent or legal guardian,  
3 the social worker shall provide a summary of his or her  
4 recommendation for disposition to the counsel for the  
5 child, any court-appointed child advocate, foster parents,  
6 relative caregivers, certified foster parents who have  
7 been approved for adoption by the State Department of  
8 Social Services when it is acting as an adoption agency in  
9 counties that are not served by a county adoption agency  
10 or by a licensed county adoption agency, community care  
11 facility, or foster family agency having the physical  
12 custody of the child at least 10 calendar days before the  
13 hearing.

14 (d) Prior to any hearing involving a child in the  
15 physical custody of a community care facility or foster  
16 family agency that may result in the return of the child  
17 to the physical custody of his or her parent or legal  
18 guardian, or in adoption or the creation of a legal  
19 guardianship, the facility or agency shall file with the  
20 court a report containing its recommendation for  
21 disposition. Prior to the hearing involving a child in the  
22 physical custody of a foster parent, a relative caregiver,  
23 or a certified foster parent who has been approved for  
24 adoption by the State Department of Social Services  
25 when it is acting as an adoption agency in counties that  
26 are not served by a county adoption agency or by a  
27 licensed county adoption agency, the foster parent,  
28 relative caregiver, or the certified foster parent who has  
29 been approved for adoption by the State Department of  
30 Social Services when it is acting as an adoption agency in  
31 counties that are not served by a county adoption agency  
32 or by a licensed county adoption agency, may file with the  
33 court a report containing his or her recommendation for  
34 disposition. The court shall consider the report and  
35 recommendation filed pursuant to this subdivision prior  
36 to determining any disposition.

37 (e) At the review hearing held six months after the  
38 initial dispositional hearing, the court shall order the  
39 return of the child to the physical custody of his or her  
40 parent or legal guardian unless the court finds, by a



1 preponderance of the evidence, that the return of the  
2 child to his or her parent or legal guardian would create  
3 a substantial risk of detriment to the safety, protection, or  
4 physical or emotional well-being of the child. The social  
5 worker shall have the burden of establishing that  
6 detriment. The failure of the parent or legal guardian to  
7 participate regularly and make substantive progress in  
8 court-ordered treatment programs shall be prima facie  
9 evidence that return would be detrimental. In making its  
10 determination, the court shall review and consider the  
11 social worker's report and recommendations and the  
12 report and recommendations of any child advocate  
13 appointed pursuant to Section 356.5; and shall consider  
14 the efforts or progress, or both, demonstrated by the  
15 parent or legal guardian and the extent to which he or she  
16 availed himself or herself of services provided.

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

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



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

7 For the purpose of placing and maintaining a sibling  
8 group together in a permanent home, the court, in  
9 making its determination to schedule a hearing pursuant  
10 to Section 366.26 for some or all members of a sibling  
11 group, as described in paragraph (3) of subdivision (a) of  
12 Section 361.5, shall review and consider the social  
13 worker's report and recommendations. Factors the  
14 report shall address, and the court shall consider, may  
15 include, but need not be limited to, whether the sibling  
16 group was removed from parental care as a group, the  
17 closeness and strength of the sibling bond, the ages of the  
18 siblings, the appropriateness of maintaining the sibling  
19 group together, the detriment to the child if sibling ties  
20 are not maintained, the likelihood of finding a permanent  
21 home for the sibling group, whether the sibling group is  
22 currently placed together in a preadoptive home or has  
23 a concurrent plan goal of legal permanency in the same  
24 home, the wishes of each child whose age and physical  
25 and emotional condition permits a meaningful response,  
26 and the best interest of each child in the sibling group.  
27 The court shall specify the factual basis for its finding that  
28 it is in the best interest of each child to schedule a hearing  
29 pursuant to Section 366.26 in 120 days for some or all of the  
30 members of the sibling group.

31 If the child was removed initially under subdivision (g)  
32 of Section 300 and the court finds by clear and convincing  
33 evidence that the whereabouts of the parent are still  
34 unknown, or the parent has failed to contact and visit the  
35 child, the court may schedule a hearing pursuant to  
36 Section 366.26 within 120 days. If the court finds by clear  
37 and convincing evidence that the parent has been  
38 convicted of a felony indicating parental unfitness, the  
39 court may schedule a hearing pursuant to Section 366.26  
40 within 120 days.



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

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

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

21 (f) The permanency hearing shall be held no later  
22 than 12 months after the date the child entered foster  
23 care, as that date is determined pursuant to subdivision  
24 (a) of Section 361.5. At the permanency hearing, the  
25 court shall determine the permanent plan for the child,  
26 that shall include a determination of whether the child  
27 will be returned to the child's home and, if so, when,  
28 within the time limits of subdivision (a) of Section 361.5.  
29 The court shall order the return of the child to the  
30 physical custody of his or her parent or legal guardian  
31 unless the court finds, by a preponderance of the  
32 evidence, that the return of the child to his or her parent  
33 or legal guardian would create a substantial risk of  
34 detriment to the safety, protection, or physical or  
35 emotional well-being of the child. The social worker shall  
36 have the burden of establishing that detriment. The court  
37 shall also determine whether reasonable services have  
38 been provided or offered to the parent or legal guardian  
39 that were designed to aid the parent or legal guardian to  
40 overcome the problems that led to the initial removal and



1 continued custody of the child. The failure of the parent  
2 or legal guardian to participate regularly and make  
3 substantive progress in court-ordered treatment  
4 programs shall be prima facie evidence that return would  
5 be detrimental. In making its determination, the court  
6 shall review and consider the social worker's report and  
7 recommendations and the report and recommendations  
8 of any child advocate appointed pursuant to Section 356.5;  
9 shall consider the efforts or progress, or both,  
10 demonstrated by the parent or legal guardian and the  
11 extent to which he or she availed himself or herself of  
12 services provided; and shall make appropriate findings  
13 pursuant to subdivision (a) of Section 366.

14 Whether or not the child is returned to his or her parent  
15 or legal guardian, the court shall specify the factual basis  
16 for its decision. If the child is not returned to a parent or  
17 legal guardian, the court shall specify the factual basis for  
18 its conclusion that the return would be detrimental. The  
19 court also shall make a finding pursuant to subdivision (a)  
20 of Section 366.

21 (g) If the time period in which the court-ordered  
22 services were provided has met or exceeded the time  
23 period set forth in paragraph (1), (2), or (3) of  
24 subdivision (a) of Section 361.5, as appropriate, and a  
25 child is not returned to the custody of a parent or legal  
26 guardian at the permanency hearing held pursuant to  
27 subdivision (f), the court shall do one of the following:

28 (1) Continue the case for up to six months for a  
29 permanency review hearing, provided that the hearing  
30 shall occur within 18 months of the date the child was  
31 originally taken from the physical custody of his or her  
32 parent or legal guardian. The court shall continue the  
33 case only if it finds that there is a substantial probability  
34 that the child will be returned to the physical custody of  
35 his or her parent or legal guardian and safely maintained  
36 in the home within the extended period of time or that  
37 reasonable services have not been provided to the parent  
38 or legal guardian. For the purposes of this section, in order  
39 to find a substantial probability that the child will be  
40 returned to the physical custody of his or her parent or



1 legal guardian and safely maintained in the home within  
2 the extended period of time, the court shall be required  
3 to find all of the following:

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

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

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

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

21 The court shall inform the parent or legal guardian that  
22 if the child cannot be returned home by the next  
23 permanency review hearing, a proceeding pursuant to  
24 Section 366.36 may be instituted. The court shall not order  
25 that a hearing pursuant to Section 366.26 be held unless  
26 there is clear and convincing evidence that reasonable  
27 services have been provided or offered to the parent or  
28 legal guardian.

29 (2) Order that a hearing be held within 120 days,  
30 pursuant to Section 366.26, but only if the court does not  
31 continue the case to the permanency planning review  
32 hearing and there is clear and convincing evidence that  
33 reasonable services have been provided or offered to the  
34 parents or legal guardians.

35 (3) Order that the child remain in long-term foster  
36 care, but only if the court finds by clear and convincing  
37 evidence, based upon the evidence already presented to  
38 it, including a recommendation by the State Department  
39 of Social Services when it is acting as an adoption agency  
40 in counties that are not served by a county adoption



1 agency or by a licensed county adoption agency, that  
2 there is a compelling reason for determining that a  
3 hearing held pursuant to Section 366.26 is not in the best  
4 interest of the child because the child is not a proper  
5 subject for adoption and has no one willing to accept legal  
6 guardianship. For purposes of this section, a  
7 recommendation by the State Department of Social  
8 Services when it is acting as an adoption agency in  
9 counties that are not served by a county adoption agency  
10 or by a licensed county adoption agency that adoption is  
11 not in the best interest of the child shall constitute a  
12 compelling reason for the court's determination. That  
13 recommendation shall be based on the present  
14 circumstances of the child and shall not preclude a  
15 different recommendation at a later date if the child's  
16 circumstances change.

17 (h) In any case in which the court orders that a hearing  
18 pursuant to Section 366.26 shall be held, it shall also order  
19 the termination of reunification services to the parent or  
20 legal guardian. The court shall continue to permit the  
21 parent or legal guardian to visit the child pending the  
22 hearing unless it finds that visitation would be  
23 detrimental to the child.

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

31 (1) Current search efforts for an absent parent or  
32 parents or legal guardians.

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



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

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

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

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

27 (j) If, at any hearing held pursuant to Section 366.26,  
28 a guardianship is established for the minor with a relative,  
29 the relative shall be eligible for aid under the Kin-GAP  
30 program as provided in Article 4.5 (commencing with  
31 Section 11360) of Chapter 2 of Part 3 of Division 9.

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

39 (l) For purposes of this section, evidence of any of the  
40 following circumstances shall not, in and of themselves,



1 be deemed a failure to provide or offer reasonable  
2 services:

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

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

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

13 SEC. 9. Section 366.22 of the Welfare and Institutions  
14 Code is amended to read:

15 366.22. (a) When a case has been continued pursuant  
16 to paragraph (1) of subdivision (g) of Section 366.21, the  
17 permanency review hearing shall occur within 18 months  
18 after the date the child was originally removed from the  
19 physical custody of his or her parent or legal guardian.  
20 The court shall order the return of the child to the  
21 physical custody of his or her parent or legal guardian  
22 unless the court finds, by a preponderance of the  
23 evidence, that the return of the child to his or her parent  
24 or legal guardian would create a substantial risk of  
25 detriment to the safety, protection, or physical or  
26 emotional well-being of the child. The social worker shall  
27 have the burden of establishing that detriment. The  
28 failure of the parent or legal guardian to participate  
29 regularly and make substantive progress in court-ordered  
30 treatment programs shall be prima facie evidence that  
31 return would be detrimental. In making its  
32 determination, the court shall review and consider the  
33 social worker's report and recommendations and the  
34 report and recommendations of any child advocate  
35 appointed pursuant to Section 356.5; shall consider the  
36 efforts or progress, or both, demonstrated by the parent  
37 or legal guardian and the extent to which he or she availed  
38 himself or herself of services provided; and shall make  
39 appropriate findings pursuant to subdivision (a) of  
40 Section 366.



1 Whether or not the child is returned to his or her parent  
2 or legal guardian, the court shall specify the factual basis  
3 for its decision. If the child is not returned to a parent or  
4 legal guardian, the court shall specify the factual basis for  
5 its conclusion that return would be detrimental.

6 If the child is not returned to a parent or legal guardian  
7 at the permanency review hearing, the court shall order  
8 that a hearing be held pursuant to Section 366.26 in order  
9 to determine whether adoption,~~ship~~ *guardianship*, or  
10 long-term foster care is the most appropriate plan for the  
11 child. However, if the court finds by clear and convincing  
12 evidence, based on the evidence already presented to it,  
13 including a recommendation by the State Department of  
14 Social Services when it is acting as an adoption agency in  
15 counties that are not served by a county adoption agency  
16 or by a licensed county adoption agency, that there is a  
17 compelling reason, as described in paragraph (2) of  
18 subdivision (g) of Section 366.21, for determining that a  
19 hearing held under Section 366.26 is not in the best  
20 interest of the child because the child is not a proper  
21 subject for adoption and has no one willing to accept legal  
22 guardianship, then the court may, only under these  
23 circumstances, order that the child remain in long-term  
24 foster care. The hearing shall be held no later than 120  
25 days from the date of the permanency review hearing.  
26 The court shall also order termination of reunification  
27 services to the parent or legal guardian. The court shall  
28 continue to permit the parent or legal guardian to visit  
29 the child unless it finds that visitation would be  
30 detrimental to the child. The court shall determine  
31 whether reasonable services have been offered or  
32 provided to the parent or legal guardian. For purposes of  
33 this subdivision, evidence of any of the following  
34 circumstances shall not, in and of themselves, be deemed  
35 a failure to provide or offer reasonable services:

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



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

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

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

15 (1) Current search efforts for an absent parent or  
16 parents.

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

25 (3) An evaluation of the child’s medical,  
26 developmental, scholastic, mental, and emotional status.

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



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

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

12 (c) This section shall become operative January 1,  
13 1999. If at any hearing held pursuant to Section 366.26, a  
14 legal guardianship is established for the minor with a  
15 relative, the relative shall be eligible for aid under the  
16 Kin-GAP program as provided in Article 4.5  
17 (commencing with Section 11360) of Chapter 2 of Part 3  
18 of Division 9.

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

26 SEC. 10. Section 366.24 of the Welfare and Institutions  
27 Code is repealed.

28 SEC. 11. Section 366.25 of the Welfare and Institutions  
29 Code is repealed.

30 SEC. 12. Section 366.3 of the Welfare and Institutions  
31 Code is amended to read:

32 366.3. (a) If a juvenile court orders a permanent plan  
33 of adoption or legal guardianship pursuant to Section 360  
34 or 366.26, the court shall retain jurisdiction over the child  
35 until the child is adopted or the legal guardianship is  
36 established. The status of the child shall be reviewed  
37 every six months to ensure that the adoption or legal  
38 guardianship is completed as expeditiously as possible.  
39 When the adoption of the child has been granted, the  
40 court shall terminate its jurisdiction over the child.



1 Following establishment of a legal guardianship, the  
2 court may continue jurisdiction over the child as a  
3 dependent child of the juvenile court following the  
4 establishment of a legal guardianship or may terminate its  
5 dependency jurisdiction and retain jurisdiction over the  
6 child as a ward of the guardianship, as authorized by  
7 Section 366.4. If, however, a relative of the child is  
8 appointed the legal guardian of the child and the child has  
9 been placed with the relative for at least 12 months, the  
10 court shall, except upon a finding of exceptional  
11 circumstances, terminate its dependency jurisdiction and  
12 retain jurisdiction over the child as a ward of the legal  
13 guardianship, as authorized by Section 366.4. Following a  
14 termination of parental rights the parent or parents shall  
15 not be a party to, or receive notice of, any subsequent  
16 proceedings regarding the child.

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

26 Notwithstanding Section 1601 of the Probate Code, the  
27 proceedings to terminate a legal guardianship which has  
28 been granted pursuant to Section 360 or 366.26 shall be  
29 held in the juvenile court, unless the termination is due  
30 to the emancipation or adoption of the child. Prior to the  
31 hearing on a petition to terminate legal guardianship  
32 pursuant to this paragraph, the court shall order the  
33 county department of social services or welfare  
34 department to prepare a report, for the court's  
35 consideration, that shall include an evaluation of whether  
36 the child could safely remain in the legal guardian's  
37 home, without terminating the legal guardianship, if  
38 services were provided to the child or legal guardian. If  
39 applicable, the report shall also identify recommended  
40 services to maintain the legal guardianship and set forth



1 a plan for providing those services. If the petition to  
2 terminate legal guardianship is granted, the juvenile  
3 court may resume dependency jurisdiction over the  
4 child, and may order the county department of social  
5 services or welfare department to develop a new  
6 permanent plan, which shall be presented to the court  
7 within 60 days of the termination. If no dependency  
8 jurisdiction has attached, the social worker shall make any  
9 investigation he or she deems necessary to determine  
10 whether the child may be within the jurisdiction of the  
11 juvenile court, as provided in Section 328.

12 Unless the parental rights of the child's parent or  
13 parents have been terminated, they shall be notified that  
14 the legal guardianship has been revoked or terminated  
15 and shall be entitled to participate in the new  
16 permanency planning hearing. The court shall try to  
17 place the child in another permanent placement. At the  
18 hearing, the parents may be considered as custodians but  
19 the child shall not be returned to the parent or parents  
20 unless they prove, by a preponderance of the evidence,  
21 that reunification is the best alternative for the child. The  
22 court may, if it is in the best interests of the child, order  
23 that reunification services again be provided to the  
24 parent or parents.

25 (c) If, following the establishment of a legal  
26 guardianship, the county welfare department becomes  
27 aware of changed circumstances that indicate adoption  
28 may be an appropriate plan for the child, the department  
29 shall so notify the court. The court may vacate its previous  
30 order dismissing dependency jurisdiction over the child  
31 and order that a hearing be held pursuant to Section  
32 366.26 to determine whether adoption or continued legal  
33 guardianship is the most appropriate plan for the child.  
34 The hearing shall be held no later than 120 days from the  
35 date of the order. Whenever the court orders that a  
36 hearing shall be held pursuant to Section 366.26, the court  
37 shall direct the agency supervising the child and the  
38 licensed county adoption agency, or the State  
39 Department of Social Services when it is acting as an  
40 adoption agency in counties that are not served by a



1 county adoption agency, to prepare an assessment under  
2 subdivision (b) of Section 366.22.

3 (d) If the child is in a placement other than the home  
4 of a legal guardian and jurisdiction has not been  
5 dismissed, the status of the child shall be reviewed at least  
6 every six months. The review of the status of a child for  
7 whom the court has ordered parental rights terminated  
8 and who has been ordered placed for adoption shall be  
9 conducted by the court. The review of the status of a child  
10 for whom the court has not ordered parental rights  
11 terminated and who has not been ordered placed for  
12 adoption may be conducted by the court or an  
13 appropriate local agency. The court shall conduct the  
14 review under the following circumstances:

15 (1) Upon the request of the child's parents or legal  
16 guardians.

17 (2) Upon the request of the child.

18 (3) It has been 12 months since a hearing held  
19 pursuant to Section 366.26 or an order that the child  
20 remain in long-term foster care pursuant to Section  
21 366.21, 366.22, 366.26, or subdivision (g).

22 (4) It has been 12 months since a review was  
23 conducted by the court.

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

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

33 (1) The continuing necessity for and appropriateness  
34 of the placement.

35 (2) The continuing appropriateness and extent of  
36 compliance with the permanent plan for the child.

37 (3) The extent of the agency's compliance with the  
38 child welfare services case plan in making reasonable  
39 efforts to return the child to a safe home and to complete



1 whatever steps are necessary to finalize the permanent  
2 placement of the child.

3 (4) The adequacy of services provided to the child.

4 (5) The extent of progress the parents or legal  
5 guardians have made toward alleviating or mitigating the  
6 causes necessitating placement in foster care.

7 (6) The likely date by which the child may be returned  
8 to and safely maintained in the home, placed for  
9 adoption, legal guardianship, or in another planned  
10 permanent living arrangement.

11 (7) For a child who is 16 years of age or older, the  
12 services needed to assist the child to make the transition  
13 from foster care to independent living.

14 The reviewing body shall determine whether or not  
15 reasonable efforts to make and finalize a permanent  
16 placement for the child have been made.

17 Each licensed foster family agency shall submit reports  
18 for each child in its care, custody, and control to the court  
19 concerning the continuing appropriateness and extent of  
20 compliance with the child's permanent plan, the extent  
21 of compliance with the case plan, and the type and  
22 adequacy of services provided to the child.

23 Unless their parental rights have been permanently  
24 terminated, the parent or parents of the child are entitled  
25 to receive notice of, and participate in, those hearings. It  
26 shall be presumed that continued care is in the best  
27 interests of the child, unless the parent or parents prove,  
28 by a preponderance of the evidence, that further efforts  
29 at reunification are the best alternative for the child. In  
30 those cases, the court may order that further reunification  
31 services to return the child to a safe home environment  
32 be provided to the parent or parents for a period not to  
33 exceed six months.

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

40 (1) The child's present placement.



1 (2) The child's current physical, mental, emotional,  
2 and educational status.

3 (3) Whether the child has been placed with a  
4 prospective adoptive parent or parents.

5 (4) Whether an adoptive placement agreement has  
6 been signed and filed.

7 (5) The progress of the search for an adoptive  
8 placement if one has not been identified.

9 (6) Any impediments to the adoption or the adoptive  
10 placement.

11 (7) The anticipated date by which the child will be  
12 adopted, or placed in an adoptive home.

13 (8) The anticipated date by which an adoptive  
14 placement agreement will be signed.

15 (9) Recommendations for court orders that will assist  
16 in the placement of the child for adoption or in the  
17 finalization of the adoption.

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

21 The court shall make appropriate orders to protect the  
22 stability of the child and to facilitate and expedite the  
23 permanent placement and adoption of the child.

24 (g) At the review held pursuant to subdivision (d) for  
25 a child in long-term foster care, the court shall consider  
26 all permanency planning options for the child including  
27 whether the child should be returned to the home of the  
28 parent, placed for adoption, or appointed a legal  
29 guardian, or whether the child should remain in  
30 long-term foster care. The court shall order that a hearing  
31 be held pursuant to Section 366.26 unless it determines by  
32 clear and convincing evidence, that there is a compelling  
33 reason for determining that a hearing held pursuant to  
34 Section 366.26 is not in the best interest of the child  
35 because the child is being returned to the home of the  
36 parent, the child is not a proper subject for adoption, or  
37 no one is willing to accept legal guardianship. If the  
38 licensed county adoption agency, or the department  
39 when it is acting as an adoption agency in counties that  
40 are not served by a county adoption agency, has



1 determined it is unlikely that the child will be adopted or  
2 one of the conditions described in paragraph (1) of  
3 subdivision (c) of Section 366.26 applies, that fact shall  
4 constitute a compelling reason for purposes of this  
5 subdivision. Only upon that determination may the court  
6 order that the child remain in long-term foster care,  
7 without holding a hearing pursuant to Section 366.26.

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

22 SEC. 13. Notwithstanding Section 17610 of the  
23 Government Code, if the Commission on State Mandates  
24 determines that this act contains costs mandated by the  
25 state, reimbursement to local agencies and school  
26 districts for those costs shall be made pursuant to Part 7  
27 (commencing with Section 17500) of Division 4 of Title  
28 2 of the Government Code. If the statewide cost of the  
29 claim for reimbursement does not exceed one million  
30 dollars (\$1,000,000), reimbursement shall be made from  
31 the State Mandates Claims Fund.

